UNITED
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Security Council

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S/1998/790
21 August 1998

ORIGINAL: ENGLISH

LETTER DATED 21 AUGUST 1998 FROM THE CHARGÉ D'AFFAIRES A.I.
OF THE PERMANENT MISSION OF QATAR TO THE UNITED NATIONS
ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

I have the honour to address this communication to you in my capacity as Chairman of the Group of Islamic States at the United Nations, and to inform you that an urgent meeting of the Group was convened at the United Nations today, 21 August 1998, to discuss the situation in the Republic of the Sudan arising from the missiles attack by the United States of America on the Al-Shifa pharmaceutical factory in Khartoum.

The Islamic Group unanimously decided to endorse the request, contained in the communication dated 21 August 1998 from His Excellency Bishop Gobrial Rosic, State Minister at the Ministry of External Relations of the Republic of the Sudan, addressed to you (S/1998/786), for the convening of an urgent meeting of the Security Council to discuss this matter. It also called upon the Security Council to send a fact-finding mission to the Sudan.

I would be grateful if the text of the present letter could be circulated as a document of the Security Council.

(Signed) Ali Fahad AL-HAJRI
Chargé d'affaires a.i. of the
Permanent Mission of the State
of Qatar to the United Nations and
Chairman, Group of Islamic States

98-24610 (E) 210898

UNITED
NATIONS

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Security Council

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S/1998/791
21 August 1998
ENGLISH
ORIGINAL: ARABIC

LETTER DATED 21 AUGUST 1998 FROM THE CHARGE D'AFFAIRES A.I. OF THE PERMANENT MISSION OF KUWAIT TO THE UNITED NATIONS ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

In my capacity as Chairman of the Arab Group for the month of August 1998, and on behalf of the States members of the League of Arab States, I have the honour to inform you that the Arab Group met on Friday morning, 21 August, and that the Group decided to support the request of the Republic of the Sudan that the Security Council consider the matter of the United States attack on a pharmaceutical plant in Khartoum, Republic of the Sudan, and that the Council take the necessary measures towards sending a fact-finding mission to the Sudan.

The Arab Group hopes that the Security Council will consider this matter as soon as possible.

(Signed) Ali Sulaiman AL-SAEID
Chargé d'affaires a.i. of the
Permanent Mission of Kuwait
Chairman of the Arab Group

98-24627 (E) 220898 220898

UNITED
NATIONS

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Security Council

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GENERAL

S/1998/792
23 August 1998

ORIGINAL: ENGLISH

LETTER DATED 22 AUGUST 1998 FROM THE PERMANENT REPRESENTATIVE OF THE SUDAN TO THE UNITED NATIONS ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

Further to my letter dated 21 August 1998 (S/1998/786), I have the honour to enclose herewith a cable message from H.E. Bishop Gobrial Roric, State Minister for External Relations in which the Minister provides more details about "al-Shifa" Pharmaceutical Factory destroyed by the American aggression

I should be grateful if you would bring this letter and its enclosure to the attention of the Members of the Security Council and distribute it as a document of the Council.

(Signed) Elfatih ERWA
Permanent Representative

98-24633 (E) 230898 230898

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Annex

[Original: Arabi

Letter dated 22 August 1998 from the Minister of State at the Ministry of Foreign Affairs of the Sudan addressed to the President of the Security Council

Further to my letter dated 21 August 1998 (S/1998/786, annex) in which I informed you of the details of the United States aggression on Thursday, 20 August 1998 against the Shifa pharmaceutical factory, I wish to inform you that the factory is located in the industrial district of Khartoum North. It has an area of 2,100 square metres and it was built at a cost of 32 million United States dollars. The factory is fully owned by the private sector. It was established by a well-known Sudanese businessman, Bashir Hasan Bashir, who owned a 60 per cent share in the factory at the time, the remaining 40 per cen being owned by the Ba'abood Shipping Company, another Sudanese company. The Bank of the Preferential Trade Agreement (PTA) contributed to financing the construction of the factory in the amount of 6 million dollars. On 29 March 1998, the owner, Mr. Bashir, sold the factory to another well-known Sudanese businessman, Mr. Salah Idris. The Shifa factory, the largest pharmaceutical factory in the Sudan, was designed by a United States expert, Mr. Henry Jobe, who is employed by the MSD Pharmaceutical Company and who is very experienced, having worked for about 30 years in this field.

The Shifa Company comprises three factories producing drugs for human use and one factory for veterinary medicines. Over seven different lines of drugs were produced at the factory which used modern machinery imported from the United States of America, Italy, Switzerland, Germany, India and Thailand.

The Shifa factory was established in order to provide the medicines required by the Sudan at low cost. In fact, the company was able to market 30 different types of pharmaceutical drugs for human use and 10 veterinary medicines, covering 90 per cent of the Sudan's requirements in terms of medicines for treating animals.

The types of drug produced by the factory comprise medicines for children antibiotics, anti-malarial drugs and remedies for the treatment of hypertensic diabetes, ulcers, pulmonary tuberculosis and rheumatism. It is the only factc in the Sudan producing a drug for the treatment of pulmonary tuberculosis; wit respect to the price of this drug, a single dose sells for 66,000 Sudanese pounds, which is equal to about 33 United States dollars, while a single dose the same drug, if imported, costs 200,000 Sudanese pounds or about 100 United States dollars. The Shifa pharmaceutical factory allocated 60 per cent of its output to the local market and exported 40 per cent to many countries includir Yemen, Chad and Nigeria, and recently Iraq in accordance with the approval granted by the Security Council Committee established pursuant to resolution 661 (1990) concerning the situation between Iraq and Kuwait. The approval wa: issued as number S/AC.25/1998/986/OC.1401 dated 13 January 1998; it was valid

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until 12 July 1998 and was renewed by authorization number S/AC.25/1998/986/OC.1402/EXIT, valid until 8 January 1999.

The factory had recently been visited by a number of dignitaries visiting the Sudan, including:

The President of the Republic of Niger, accompanied by the Minister of Health;

The Minister for Foreign Affairs of Burkina Faso;

The Minister for Foreign Affairs of Kenya;

The President of the Bank of the Preferential Trade Agreement;

Mr. Hussein El-Gazazi, Regional Director for the Eastern Mediterranean, World Health Organization;

The former Minister of Health of Yemen;

The former Ambassador of the United Kingdom to the Sudan;

The German Ambassador to the Sudan;

The Director of Medical Supplies of Chad;

Delegations from the Union of Arab Doctors;

Delegations from the Union of Arab Veterinary Surgeons.

The factory has also been visited by more than 2,000 Sudanese pharmacists, doctors, specialists and interns, together with all the veterinary surgeons in Khartoum province and the Association of Shepherds. The factory remained permanently open to visitors, including school pupils.

The United States aggression totally destroyed the factory, causing human casualties, including many dead and injured. The Council will be provided later with details of the human casualties. As for material damage, the preliminary assessment is as follows:

1. Premises and machinery to the value of 32 million dollars;

2. Empty bottles, other containers, and machinery for the manufacture of dermatological preparations: 3 million dollars;

3. Raw materials for use by the factory: 5 million dollars.

In addition, the United States aggression destroyed the jobs of the 306 employees of the factory, on whom about 3,000 members of their families are dependent.

In the light of the above facts, we reiterate that the United States allegations are baseless. On behalf of the Government of the Sudan, I should like once again to request the Council to send a fact-finding and verification team to visit the Sudan, to ascertain the nature of the factory's activities and to study what remains of it in order to find out whether it contains anything that supports the United States allegations. The team could also contact the countries and firms from which the factory purchased the equipment and machinery in order to obtain their scientific specifications and production capabilities.

I am hopeful that the Security Council will discharge its duties and responsibilities as specified in the Charter, and that it will respond to this request in the interest of maintaining international peace and security. I also hope that the United States Administration will have the courage to accept the findings of the verification team, that it will admit its crime and take full responsibility for the damage it has inflicted on the Sudan and its people by means of this treacherous attack which targeted one of the most important necessities of life, namely, the right to medical treatment.

In conclusion, we assure you that the Sudan is ready to receive the verification team at your convenience, to cooperate with it and to extend to it every facility to enable it to carry out its task.

(Signed) Gobrial RORIC
Minister of State at
the Ministry of Foreign Affairs

UNITED NATIONS **S**

Security Council

Distr.
GENERAL

S/1998/793
24 August 1998

ORIGINAL: ENGLISH

LETTER DATED 23 AUGUST 1998 FROM THE PERMANENT REPRESENTATIVE OF THE SUDAN TO THE UNITED NATIONS ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

This is in reference to my letter dated 22 August 1998 regarding the facts pertaining to the "al-Shifa" Pharmaceutical Factory destructed by United States missiles on false allegations. Please find attached a list of documents providing more information refuting the American allegations that the factory produces chemical weapons. The documents are as follows:

1. Press Release by Dr. (Lawyer) Ghazi Suleiman, legal adviser of "al-Shifa" Pharmaceutical Company in which he gives the historical background of the establishment of the factory and its status of ownership.

2. An article published by "Asharq al-Awsat", Arab international newspaper, on 22 August 1998 where the former technical director of "al-Shifa" factory, Mr. Khalid Dalbouh (Jordanian), declares that the mentioned factory was also financed by the American Development Bank (literally translated from the Arabic).

3. An article by the AFP News Agency, in which a British engineer who worked at "al-Shifa" factory disputes United States claims.

4. An article by the AFP News Agency, in which a Jordanian engineer who worked at "al-Shifa" factory denies that the factory could have produced VX gas.

I should be grateful if you could bring the present letter and its annexes to the attention of the members of the Council and circulate them as a document of the Security Council.

(Signed) Elfatih ERWA
Permanent Representative

98-24722 (E) 240898

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Annex I

Press Statement

BY: DR .GHAZI SULEIMAN
THE LEGAL ADVISOR OF
AL-SHIFA PHARMACEUTICAL COMPANY

Facts concerning the ownership & activities
of the factory destructed by the U.S on false allegations.

Khartoum-21August 1998

SHIFA Pharmaceutical Company

21 August 1998

PRESS RELEASE

Shifa Pharmaceutical Company is situated in Khartoum North Industrial Area, in an area of 21,00 metres and the total cost is approximately 32 Million US Dollars, and 100% private sector owned as it was established by Mr. Beshir Hassan Beshir - a Sudanese business man, with 40% co-operation of Baabood Marine Enterprises.

The Bank of Preferential Trade (PTA), Nairobi funded approximately 6 million Dollars. Ownership changed hands to business man Salah A. M. Idris and Ahmed Idris on March 29th 1998.

Shifa Pharmaceutical Company is one of the largest manufacturers of medicine in the Middle East and by far the largest in the Sudan. The factory was designed by an American expert named Henry Jobe, employed by M.S.D. Pharmaceutical Company , and who has the expertise in this field for over thirty years.

The Company consists of three factories for human medicine and one for veterinary medicine. There are more than seven production lines for manufacturing different medications. The modern machines were imported from Sweden, U.S.A., Italy, Switzerland, Germany, India and Thailand.

The Goal of the Company is to provide reasonably priced drugs and medications that are of use to the public. The Company has actually produced human and veterinary drugs and has marketed in the different pharmacies 30 different human medications and 10 veterinary drugs that cover 90% of the animal diseases.

Samples of these drugs include, children medicines, anti biotic, malaria treatment, hyper tension, diabetes, ulcer, tuberculosis, rheumatism, ... just as one example, the TB drug is produced solely by Shifa Co.in the Sudan and is sold at the low cost of 66,000 Pounds Sudanese, while other brands cost around 200,000 Sudanese Pounds.

The Company's production is 60% of the local market and 40% for export which has actually being started to the Yemen, Chad, and Nigeria; and lately To Iraq, with agreement of the United Nation (oil for food and drugs).

The Company was visited by many Important personalities and Dignitaries , to name but some:-

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President of the Niger and his Health Minister;
Foreign Affairs Minister of Burkina Faso;
Foreign Affairs, Kenya
President of Bank of Preferential Trade PTA., Nairobi;
Director World Health Program (East Mediterranean Region), Dr. Hussein Al Gazairi;
Health Minister, Borkina Faso;
Ex Health Minister, The Yemen;
Ex British Ambassador to the Sudan;
The German Ambassador;
Chadien Medical Supplies Director
Arab Doctors Confrence Delegates;
Arab Vets Confrence Delegates;
Over Two thousand Sudanese Pharmacists, Physicians and General Practitioners
All Vets inKhartoum Province
Sheperds Union

The Company has always been open to visitors including scholol children.

Shifa Pharmaceutical Company was totally destroyed.....several staff were wounded and one died as a result of his wounds.

1. The buildings and machinery cost 32 Million US Dollars;
2. Raw material at the cost of over 5 Million Dollars;
3. Ready medicines at over 2 Million Dollars cost;
3. Empty containers and bottles plus new machnier (specially for skin products) at the cost of 3 Million Dollars;
4. Some Raw material at Khartoum Airport, imported from Egypt;
5. 306 staff are left redundant with a dependancy of 3000 person.

One can see what has re nained now after this devastating destruction.

THEREFORE

We request an International Committee of experts for investigation and fact finding mission to clarify all the false allegations and ask for the compensation for the total loss of the factory.

Thank You

Dr Ghazi Suleiman

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Annex II

صحيفة الشرق الاوسط . السبت ٢٢ أغسطس ١٩٩٨

المدير الفني السابق للمصنع يطالب واشنطن بدفع تعويضات عن الخسائر التي ألحقت به

بنك التنمية الأميركي ساهم في تمويل وتجهيز «مصنع الشفاء» بالخرطوم

عمان: «الشرق الأوسط»

طالب المدير الفني السابق لمصنع الشفاء السوداني الولايات المتحدة بدفع مبلغ 120 مليون دولار تعويضا عن الخسائر التي الحقتها به الصواريخ الاميركية.

وقد المدير الفني للمصنع خالد ابو دلبوح الأردني الجنسية ما اسماه «بالادعاءات والافتراءات المستندة الى معلومات غير دقيقة ومضللة روجتها واشنطن لتبرر عدوانها الظالم على مؤسسة لانتاج الدواء البشري والأدوية البيطرية».

وقال ابو دلبوح في تصريحات صحافية في عمان ان هناك «معدات واجهزة اميركية في المصنع الذي تزعم اميركا انه مصنع للكيماويات. ومن بينها اجهزة فحص المواد وة اجهزة للتحكم بالكومبيوتر اميركية وسويسرية الصنع اضافة الى جهاز اميركي لتوليد البخار ووحدة معالجة المياه من شركة برونز الاميركية».

واضاف ابو دلبوح «وهناك معدات واجهزة ومختبرات بريطانية وسويسرية وايطالية وسويدية وتايلاندية ودنماركية واميركية الصنع يمكن الرجوع اليها للتحقق من الاجهزة وخواصها وما تنتجه».

واكد ابو دلبوح «ان بنك التنمية الاميركي ساهم في شراء مواد خام اولية لانتاج المصنع بكلفة خمسة ملايين دولار. وان هناك ممثلين دائمين للبنك يراقبون كل حركة صغيرة كانت او كبيرة في المصنع ويداومون في المصنع للاطمئنان على حسن ادائه لضمان قيمة قرضهم».

وتابع القول «كما ان مدير البنك الافريقي كان يزور المصنع كل شهرين او ثلاثة اشهر».

واوضح ابو دلبوح «ان هناك سجلات موثقة لكل آلة او ماكينة في المصنع توضح مقدار ونوع اي انتاج في المصنع الذي كان يعمل وفق احدث الطرق في ظل مراقبة الكترونية بواسطة كومبيوترات حديثة اميركية وسويسرية وغيرها. كما ان كبار الزوار يترددون على المصنع الذي يعتبر مثاليا في ادائه ونوعية الماكينات المستخدمة في انتاجه».

وقال ابو دلبوح الذي عمل في صناعة الادوية في الاردن (ادوية الحكمة) لمدة 19 عاما والآن يدير مصنع ادوية الجزيرة السعودي: انه تعاقد مع مسؤولين في ادارة المصنع السوداني وهما بشير حسن ومحمد عبدة للاعداد للمصنع من يناير (كانون الثاني) 1995 وحتى نوفمبر (تشرين الثاني) 1997. حيث انتقلت ملكية المصنع مطلع العام الجاري الى رجل الأعمال صلاح ادريس. واضاف ابو دلبوح انه عايش المصنع منذ الخطوات الأولى اي منذ وضع اعمدة الأساس وغادره بعد تشغيله بسبعة أشهر وساهم في شراء جميع ماكيناته ومعداته. موضحا ان مكونات المصنع هي لتصنيع الأدوية والبنسلين والمعقمات والادوية البيطرية للحيوانات وهو منفصل عن المصانع للادوية البشرية. وينتج المصنع ايضا البودرات والعبوات والسوائل الدوائية والكبسولات والحبوب.

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Unofficial Translation

Aman, 22 August 1998, ASHARQ AL-AWSAT

Former Technical Director of the Factory demands compensation from Washington for losses it inflicted upon the factory.

American Development Bank contributed to the financing and establishment of al-Shifa Factory in Khartoum.

Former Technical Director of Sudanese al-Shifa Factory demanded that USA pay $120.000.000.00 (One Hundred and Twenty Million US Dollars) as compensation for the losses caused by the American missiles attack. The Technical Director, Mr. Khalid Abu Dalbouh, (a Jordanian national) refuted the allegation which lack precise information and deceiving at the same time propagated by Washington to justify its unjust aggression against a pharmaceutical corporation which produce human and veterinary medicine

Abu Dalbouh added in a press statement in Aman that the factory which America alleged that it produces chemical precursor contains 6 Swiss and American computers control equipment in addition to an American machine for generation of vapor and a unit for water processing manufactured by the American company (Bronze)

Abu Dalbouh added that the factory contains equipment, machinery and laboratories manufactured in Britain, Switzerland, Italy, Sweden, Thailand, Denmark and USA and that the manufacturers could be contacted to verify the nature of the equipment and what they produce. He also confirmed that the American Development Bank contributed with $5,000.000.00 (Five Million USA Dollars), for the purchase of raw materials for the factory's production, the Bank has permanent representatives inside the factory to supervise every activity, be it small or large, so as to be assured of its efficient performance as a guarantee regarding its loan.

Dalbouh added that there is a record for every machine in the factory which explains the quality and quantity of the factory, which was using advanced technology i e modern American and Swiss computers and other advanced machinery. Distinguished dignitaries use to visit the

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factory which is considered as a model as regards the quality of its machinery and performance. Abu Dalbouh, who works in the manufacturing of medicine industry for 19 years (Adwiat al-Hikma), currently in charge of the administration of the Gezira pharmaceutical factory in Saudi Arabia, said that he was following the development of the al-Shifa factory since its inception and left it 7 months after it started operation, he participated in purchasing all its machinery and equipment explaining that the factory components are for the production of penicillin and antibiotics and veterinary medicine

Annex III

British engineer who worked at Sudan factory disputes US claim

[Latest News From Sudan At Sudan Net]

News Article by AFP on August 22, 1998 at 14:03:50:

British engineer who worked at Sudan factory disputes US claim

LONDON, Aug 22 (AFP) - A British engineer who helped build and equip the factory in Sudan destroyed by a US missile strike earlier this week said Saturday it could not have been used to manufacture chemical weapons.

Tom Carnaffin of Hexham, northern England, said he worked for four years as a technical manager for the family who owns the pharmaceutical plant.

"I have intimate knowledge of that factory and it just does not lend itself to the manufacture of chemical weapons," he said.

He also said he doubted the US claim that the factory was manufacturing chemical-warfare related material in the veterinary part of the factory.

"I have intimate knowledge of that part of the establishment and unless there have been some radical changes in the last few months it just isn't equipped to cope with the demands of chemical weapon manufacturing.

"You need things like airlocks but this factory just has doors leading out onto the street," he said.

Carnaffin said he worked in Khartoum at the al-Shifa medicine factory between 1992 and 1996 and since then has worked closely with its owners, the Baaboud family, and has been in contact with them two or three times a week.

He also said that the factory was in the process of being sold to a Saudi national.

Annex IV

Engineers deny Sudan factory could have produced VX gas

[Latest News From Sudan At Sudan.Net]

News Article by AFP on August 22, 1998 at 14:05:18:

Engineers deny Sudan factory could have produced VX gas

AMMAN, Aug 22 (AFP) - The pharmaceutical complex of Al-Shifa, destroyed Thursday in a US cruise missile strike, could not have produced chemical weapons as Washington claims, engineers who oversaw the plant's production said Saturday.

"The factory was designed to produce medicine and it would be impossible to convert it to make anything else," the Jordanian engineer Mohammed Abul Waheed told reporters at a press conference organised by the Sudanese embassy in Amman.

Another Jordanian engineer who worked at the plant denied the factory had any links with Osama bin Laden, whom the US has blames for the twin August 7 bombings at US embassies in Nairobi and Dar-es-Salaam that left 257 dead.

"Osama bin Laden has no relation to this matter, whether financial, organisational, administrative or anything," said Ahmed Salem.

A third colleague, Abu Dalbouh, said the factory produced antibiotics for humans and animals and had no facilities to produce VX gas, as the United States has alleged.

"I think this is very, very impossible," Dalbouh said. "We don't have any (production) line to produce that gas."

The three Jordanians said they had overseen construction and the first three months production of the Al-Shifa pharmaceutical plant which opened in July 1997.

Al-Shifa was a complex of three factories in an industrial area surrounded by residential districts in Khartoum North.

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S/1998/794
24 August 1998

ORIGINAL: ENGLISH

LETTER DATED 24 AUGUST 1998 FROM THE PERMANENT REPRESENTATIVE OF PAKISTAN TO THE UNITED NATIONS ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

Pakistan has been closely monitoring the events since the unfortunate bombing incidents in Nairobi and Dar es Salaam.

We condemned these attacks and expressed our sympathy with the families of the victims. As you are well aware, Pakistan itself has been a victim of terrorism, including State-sponsored terrorism.

Not only did we condemn the attacks in Kenya and the United Republic of Tanzania, but we also offered our cooperation in the international efforts to apprehend the perpetrators of the crime. Consequently, when we detained a certain Mohammad Sadeq Oweda, who, according to our interrogation, appeared to be involved in the incidents in Nairobi, we handed him over to the Kenyan authorities in Nairobi.

We had expected that the results of the inquiry on the bombings in Nairobi and Dar es Salaam would be shared with us. However, the United States of America, despite being well aware of our strong position against terrorism, decided to take unilateral action against alleged terrorist sites in Afghanistan and the Sudan.

This action by the United States entailed a violation of the airspace of Pakistan. On 21 August 1998 we lodged a protest with the United States on the presumption that the missiles had overflown the territory of Pakistan. This was later proved to be correct, as one of the missiles landed at Shatinger in the province of Balochistan, 280 kilometres inland from our coastline in Pasni.

Our protest is brought to the notice of the Security Council in regard to the violation of our airspace. Such action, if condoned, sets a precedent which can encourage other countries to pursue aggressive designs against their neighbours on flimsy or unsubstantiated pretexts.

An element that cannot be ignored is that unilateral actions such as this only encourage misguided elements to persevere in acts of extremism, and do not serve the overriding objective of rooting out terrorism. We would have hoped

that there would have been prior consultations before this action was undertaken.

The elimination of terrorism is of common concern to all. Whereas Pakistan cannot speak for the Government of Afghanistan, it has nevertheless noted that the leadership in Kabul and Kandahar have again reiterated categorically that they would not allow their territory to be used for acts of terrorism against third countries.

I would be grateful if this letter could be circulated as a document of the Security Council.

(Signed) Ahmad KAMAL
Ambassador and Permanent Representativ

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Security Council

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S/1998/795
24 August 1998

ORIGINAL: ENGLISH

LETTER DATED 24 AUGUST 1998 FROM THE ACTING PERMANENT REPRESENTATIVES OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE UNITED STATES OF AMERICA TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

1. The Governments of the United Kingdom of Great Britain and Northern Ireland and the United States of America are gravely concerned that, almost 10 years after the terrorist bombing of Pan Am flight 103 over Lockerbie, those accused have not yet stood trial. Several years have passed since the Security Council, in resolutions 731 (1992), 748 (1992) and 883 (1993) required the Libyan Arab Jamahiriya to ensure the appearance of the two accused for trial in the appropriate United Kingdom or United States court.

2. Our two Governments consider that it is essential for the promotion of international peace and security that justice is done and is seen to be done before the eyes of the international community in the appropriate Scottish or United States court. Despite the comprehensive assurances given as to the fairness of a trial in these jurisdictions, the report of the independent legal experts appointed by you to look at the Scottish judicial system (S/1997/991) and the offer made by the Government of the United Kingdom to accommodate international observers at a Scottish trial, the Libyan Arab Jamahiriya has failed to ensure the appearance of the two accused. Our two Governments reiterate their profound concern at this disregard of the Security Council's demands.

3. Nevertheless, in the interest of resolving this situation in a way which will allow justice to be done, our Governments are prepared, as an exceptional measure, to arrange for the two accused to be tried before a Scottish court sitting in the Netherlands. After close consultation with the Government of the Kingdom of the Netherlands, we are pleased to confirm that the Government of the Netherlands has agreed to facilitate arrangements for such a court. It would be a Scottish court and would follow normal Scots law and procedure in every respect, except for the replacement of the jury by a panel of three Scottish High Court judges. The Scottish rules of evidence and procedure, and all the guarantees of fair trial provided by the law of Scotland, would apply. Arrangements would be made for international observers to attend the trial. Attached is the text of the intended agreement between the Government of the Netherlands and the Government of the United Kingdom (annex I).

4. The two accused will have safe passage from the Libyan Arab Jamahiriya to the Netherlands for the purpose of the trial. While they are in the Netherlands for the purpose of the trial, we shall not seek their transfer to any jurisdiction other than the Scottish court sitting in the Netherlands. If found guilty, the two accused will serve their sentence in the United Kingdom. If acquitted, or in the event of the prosecution being discontinued by any process of law preventing any further trial under Scots law, the two accused will have safe passage back to the Libyan Arab Jamahiriya. Should other offences committed prior to arrival in the Netherlands come to light during the course of the trial, neither of the two accused nor any other person attending the court, including witnesses, will be liable for arrest for such offences while in the Netherlands for the purpose of the trial.

5. The two accused will enjoy the protection afforded by Scottish law. They will be able to choose Scottish solicitors and advocates to represent them at all stages of the proceedings. The proceedings will be interpreted into Arabic in the same way as a trial held in Scotland. The accused will be given proper medical attention. If they wish, they can be visited in custody by the international observers. The trial would of course be held in public, adequate provision being made for the media.

6. Our two Governments are prepared to support a further Security Council resolution for the purposes of the initiative (which would also suspend sanctions upon the appearance of the two accused in the Netherlands for the purpose of trial before the Scottish court) and which would require all States to cooperate to that end. Once that resolution is adopted, the Government of the United Kingdom will legislate to enable a Scottish court to hold a trial in the Netherlands. The necessary United Kingdom legislation has already been prepared and is attached (annex II).

7. This initiative represents a sincere attempt by the Governments of the United Kingdom and the United States to resolve this issue, and is an approach which has recently been endorsed by others, including the Organization of African Unity, the League of Arab States, the Movement of Non-Aligned States and the Organization of the Islamic Conference (S/1994/373, S/1995/834, S/1997/35, S/1997/273, S/1997/406, S/1997/497, S/1997/529). We are only willing to proceed in this exceptional way on the basis of the terms set out in the present letter (and its annexes), and provided that the Libyan Arab Jamahiriya cooperates fully by:

(a) Ensuring the timely appearance of the two accused in the Netherlands for trial before the Scottish court;

(b) Ensuring the production of evidence, including the presence of witnesses before the court;

(c) Complying fully with all the requirements of the Security Council resolutions.

8. We trust that the Libyan Arab Jamahiriya will respond promptly, positively and unequivocally by ensuring the timely appearance of the two accused in the Netherlands for trial before the Scottish court. If it does not do so, our two

Governments reserve the right to propose further sanctions at the time of the next Security Council review. They also reserve the right to withdraw this initiative.

9. We have the honour to request that you convey the text of the present letter and its annexes to the Government of the Libyan Arab Jamahiriya. We would be grateful if you would agree to give the Libyan Arab Jamahiriya any assistance it might require with the physical arrangements for the transfer of the two accused directly to the Netherlands.

10. We request that the present letter be circulated as a document of the Security Council.

(Signed) S. J. GOMERSALL
Ambassador Extraordinary
and Plenipotentiary
Acting Permanent Representative
of the United Kingdom to the
United Nations

(Signed) A. Peter BURLEIGH
Ambassador Extraordinary
and Plenipotentiary
Acting Permanent Representative
of the United States of America
to the United Nations

Annex I

STATUTORY INSTRUMENTS

1998 No.

UNITED NATIONS

The High Court of Justiciary (Proceedings in the Netherlands) Order 1998

Made - - - - *1998*

Laid before Parliament *1998*

Coming into force - *1998*

ARRANGEMENT OF ORDER

1. Citation and commencement.
2. Interpretation.
3. Proceedings before High Court of Justiciary in the Netherlands.
4. Initiation of proceedings conducted by virtue of this Order.
5. Constitution of court.
6. Questions arising prior to trial.
7. Additional judge.
8. Constables and officers of law.
9. Execution of warrant.
10. Powers of sheriff.
11. Productions.
12. Witnesses.
13. Offences committed in course of proceedings.
14. Appeals.
15. Place of confinement of accused.
16. Modification of enactments relating to prisons.
17. Powers of Lord Advocate and Secretary of State.

At Balmoral, the day of 1998

Present,

The Queen's Most Excellent Majesty in Council

Whereas under Article 41 of the Charter of the United Nations the Security Council of the United Nations has, by a resolution adopted on [ ] 1998, called upon Her Majesty's Government in the United Kingdom to take certain actions to facilitate the conducting of criminal proceedings under Scots law in the Netherlands.

/...

Now therefore, Her Majesty, in exercise of the powers conferred on Her by section 1 of the United Nations Act 1946(a), is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered:—

Citation and commencement.

1. This Order may be cited as the High Court of Justiciary (Proceedings in the Netherlands) Order 1998 and shall come into force on [ ].

Interpretation.

2.—(1) In this Order, the following expressions have, except where otherwise expressly provided, the meanings hereby assigned to them, that is to say—

"the 1995 Act" means the Criminal Procedure (Scotland) Act 1995(b);

"Lord Commissioner of Justiciary" includes a person appointed under—

(i) section 22 of the Law Reform (Miscellaneous Provisions)(Scotland) Act 1985(c) (re-employment of retired judges); or

(b) section 35(3) of the Law Reform (Miscellaneous Provisions)(Scotland) Act 1990(d) (temporary judges);

"premises of the court" means any premises in the Netherlands made available by the Government of the Netherlands for the purposes of proceedings conducted by virtue of this Order; and

"proceedings" includes anything which requires to be done or may be done in relation to proceedings by any person at any time.

(2) Expressions used in this Order and the 1995 Act have the meaning assigned to them by that Act.

Proceedings before High Court of Justiciary in the Netherlands.

3.—(1) For the purpose of conducting criminal proceedings on indictment against Abdelbaset Ali Mohmed Al Megrahi and Al Amin Khalifa Fhimah (in this Order referred to as "the accused") on the charges of conspiracy to murder, murder and contravention of the Aviation Security Act 1982(e) specified in the petition upon which warrant for arrest was issued by the Sheriff of South Strathclyde, Dumfries and Galloway on 13th November 1991, the High Court of Justiciary may, in accordance with the provisions of this Order, sit in the Netherlands.

(2) Except as provided for in this Order, proceedings before the High Court sitting in the Netherlands shall be conducted in accordance with the law relating to proceedings on indictment before the High Court of Justiciary in Scotland.

Initiation of proceedings conducted by virtue of this Order.

4.—(1) The Lord Advocate may give a notice under this article to the Lord Justice Clerk where it appears to him that both of the accused are present in the Netherlands.

(2) On receipt of a notice given by the Lord Advocate under paragraph (1) above the Lord Justice Clerk shall forthwith direct that, in respect of the proceedings against the accused and subject to Articles 6 and 14 of this Order, the High Court of Justiciary shall sit in the Netherlands at the premises of the court.

(3) Without prejudice to paragraph (4) below, a notice given or a direction made under this article shall not be called in question otherwise than in the proceedings for

(a) 9 & 10 Geo.6 c. 45.
(b) 1995 c. 46.
(c) 1985 c. 73.
(d) 1990 c. 40.
(e) 1982 c. 36.

which a court shall have been constituted under article 5 of this Order.

(4) Where the Lord Advocate withdraws a notice under paragraph (1) above by a further notice to the Lord Justice Clerk, the Lord Justice Clerk shall withdraw any direction he has made.

(5) Anything which the Lord Justice General requires, or has power, to do in relation to criminal proceedings shall, in relation to proceedings conducted by virtue of this Order, be done by the Lord Justice Clerk.

Constitution of court.

5.—(1) After he has made a direction under article 4 of this Order, the Lord Justice Clerk shall appoint three Lords Commissioners of Justiciary to constitute a court for the purposes of any trial to be held in the course of proceedings to be conducted by virtue of this Order, and shall nominate one of them to preside.

(2) The determination of any question of law arising in any such trial shall be according to the votes of the majority of the members of the court, including the presiding judge.

(3) The court shall conduct any such trial without a jury.

(4) For the purposes of any such trial, the court shall have all the powers, authorities and jurisdiction which it would have had if it had been sitting with a jury in Scotland, including power to determine any question and to make any finding which would, apart from this article, be required to be determined or made by a jury, and references in any enactment or other rule of law to a jury or the verdict or finding of a jury shall be construed accordingly.

(5) At the conclusion of any such trial, the court shall retire to consider its verdict, which shall be determined by a majority and delivered in open court by the presiding judge.

(6) In the event of a verdict of guilty—

(a) the presiding judge shall pass sentence; and

(b) without prejudice to its power apart from this paragraph to give a judgment, the court shall, at the time of conviction or as soon as practicable thereafter, give a judgment in writing stating the reasons for the conviction.

(7) Any reference in any enactment or other rule of law to—

(a) the commencement of the trial; or

(b) the swearing of the jury,

shall be taken to be a reference to the reading of the indictment to the court by the clerk.

(8) In the application of section 87 of the 1995 Act (non-availability of judge) to such proceedings, any reference to the clerk of court includes a reference to the senior remaining judge.

Questions arising prior to trial.

6.—(1) Questions arising in proceedings conducted by virtue of this Order prior to the reading of the indictment to the court by the clerk shall be dealt with in the ordinary way.

(2) Any such question shall be heard and determined at the premises of the court, unless the accused are not entitled, or have intimated that they do not wish, to be present, when it may be heard and determined at a sitting of the High Court of Justiciary in Edinburgh.

Additional judge.

7.—(1) When he makes appointments under Article 5 of this Order, the Lord Justice Clerk shall also appoint a Lord Commissioner of Justiciary (in this Article referred to as an "additional judge") to sit with the court.

(2) Subject to paragraph (3) below, the additional judge shall sit with the judges of the court, and shall participate in all their deliberations, but shall not vote in any decision which is required to be taken.

(3) Where one of the judges originally appointed to form part of the court—

(a) has died; or

(b) is absent, and it appears to the senior remaining judge that the absence will be prolonged,

the senior remaining judge shall so certify in writing, and the additional judge shall thereafter sit, and assume the functions of, the deceased or absent judge.

Constables and officers of law.

8. Anything which, under or by virtue of any enactment or other rule of law, requires to be done or may be done by a constable or officer of law in relation to criminal proceedings may, in relation to proceedings conducted by virtue of this Order, be done at the premises of the court.

Execution of warrant.

9. For the purposes of any enactment or other rule of law relating to criminal proceedings in Scotland, the detention of the accused shall not begin prior to the execution of the warrant to arrest them at the premises of the court.

Powers of sheriff.

10. Anything which, under or by virtue of any enactment or other rule of law, requires to be done or may be done by a sheriff in relation to criminal proceedings may, in relation to proceedings conducted by virtue of this Order, be done—

(a) by any sheriff who would have jurisdiction if the proceedings were taking place in Scotland; and

(b) at the premises of the court.

Productions.

11. Productions shall be made available for inspection—

(a) by the accused, at the premises of the court; or

(b) by their representatives, at such address or addresses in the United Kingdom as may be intimated to the accused by the Clerk of Justiciary.

Witnesses.

12.—(1) Witnesses i the United Kingdom who are cited to appear for the purpose of proceedings being conducted by virtue of this Order may be cited to appear at the premises of the court.

(2) Any warrant for the arrest of a witness shall be authority for him to be transferred, under arrangements made in that regard by the Secretary of State, to the premises of the court.

(3) It shall be competent for witnesses who are outwith the United Kingdom to be cited to appear before the High Court of Justiciary sitting in the Netherlands in the

same way as if the court had been sitting in Scotland and, accordingly, at the end of subsection (1) of section 2 of the Criminal Justice (International Co-operation) Act 1990(a) (service of United Kingdom process overseas) there shall be inserted the words "; and, in paragraph (b) above, "United Kingdom" includes the premises of the court within the meaning of the High Court of Justiciary (Proceedings in the Netherlands) Order 1998.".

Offences committed in course of proceedings.

13.—(1) The High Court of Justiciary shall have jurisdiction in relation to any contempt of court or other offence committed in the course of, or in relation to, proceedings being conducted by virtue of this Order, whether at the premises of the court or elsewhere in the Netherlands.

(2) Where an offence in relation to which the High Court of Justiciary has jurisdiction by virtue of paragraph (1) above is not dealt with summarily by that court sitting in the Netherlands, it may be dealt with at a later date by way of petition and complaint or on indictment at a sitting of the High Court of Justiciary in Scotland.

Appeals.

14.—(1) For the purpose of hearing any appeal (including any application to the *nobile officium*) in relation to any proceedings to which this Order applies, the High Court of Justiciary may sit either at the premises of the court or in Scotland; but where either of the accused is entitled to attend any such appeal and intimates that he wishes to do so, it shall be heard at the premises of the court.

(2) Where the appeal is from a decision of the court constituted under Article 5 of this Order, the quorum of the High Court of Justiciary sitting for the purposes of paragraph (1) above shall be five Lords Commissioners of Justiciary.

(3) The Lords Commissioners of Justiciary who are to constitute the court for the purposes of paragraph (1) above shall be appointed by the Lord Justice Clerk.

Place of confinement of accused.

15.—(1) Where a warrant for the arrest or imprisonment of the accused has been executed, they shall be confined in the premises of the court until the conclusion of proceedings conducted by virtue of this Order.

(2) Any enactment or other rule of law applying to prisons or prisoners in Scotland shall, subject to Article 16 of this Order, apply in relation to the premises of the court and the persons confined there as if, in so far as they are used for that purpose, the premises were a prison in Scotland.

(3) Anything which, under or by virtue of any enactment or other rule of law, requires to be done or may be done by an officer of a prison may be done by such an officer at the premises of the court.

Modification of enactments relating to prisons.

16.—(1) The following provisions of the Prisons (Scotland) Act 1989(b) shall not apply, namely—

section 3(2) (appointment of chaplains),

section 7 (powers of inspection of prisons),

section 8 (visiting committees),

section 9 (appointment of prison ministers),

(a) 1990 c.5.
(b) 1989 c. 45.

sections 36 to 38 (provisions relating to acquisition and disposal of prisons and land),

sections 40 and 40A (persons unlawfully at large),

section 41 (prohibited articles), and

section 41A (search by authorised employee).

(2) Section 3A of that Act (medical services) shall have effect as if any reference to a registered medical practitioner included a reference to any person in the Netherlands holding any diploma, certificate or other evidence of formal qualification entitled to recognition under Article 2 of Council Directive 93/16 to facilitate the free movement of doctors and the mutual recognition of their diplomas, certificates and other evidence of formal qualifications(a).

(3) Section 34 of that Act (notification of death of prisoner) shall have effect as if—

(a) the reference to the procurator fiscal were a reference to the Lord Advocate; and

(b) the reference to the visiting committee were omitted.

(4) The following provisions of the Prisons and Young Offenders Institutions (Scotland) Rules 1994(b) shall not apply, namely—

(a) rules 36 to 38 (chaplains, visiting ministers and religious services);

(b) rule 71 (provision of work for remand prisoners);

(c) rules 104 to 110 (complaints);

(d) Part 13 (transfer and discharge of prisoners);

(e) Part 16 (visiting committees),

and, in applying the remainder of the Rules, the Governor may make such adaptations of the prisons regime as appear to him to be necessary, having regard to the circumstances of the premises of the court and of the persons confined there.

(5) Section 10 of the Prisons (Scotland) Act 1989 (place of confinement of prisoners) and Schedule 1 to the Crime (Sentences) Act 1997(c) (transfer of prisoners) shall not apply to the accused while they are confined in the premises of the court for the purpose of proceedings conducted by virtue of this Order.

Powers of Lord Advocate and Secretary of State.

17. Without prejudice to any powers which he may have under any other enactment or other rule of law, the Lord Advocate or the Secretary of State may do anything, whether within or outwith the United Kingdom, which appears to him to be necessary or expedient for the purposes of this Order.

(a) OJ L165, 7.7.1993, p.1.
(b) S.I. 1994/1931, as amended by S.I. 1996/32, 1197/2007 and 1998/1589.
(c) 1997 c. 43.

EXPLANATORY NOTE

(This note is not part of the Order in Council)

This Order in Council provides for criminal proceedings against the two men accused of the destruction of Pan Am 103 over Lockerbie on 21st December 1988, including a trial before the High Court of Justiciary, to be conducted in the Netherlands.

Annex II

AGREEMENT BETWEEN THE GOVERNMENT OF THE KINGDOM OF THE NETHERLANDS AND THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND CONCERNING A SCOTTISH TRIAL IN THE NETHERLANDS

The Government of the Kingdom of the Netherlands and the Government of the United Kingdom of Great Britain and Northern Ireland,

Recalling that on 21 December 1988 Pan American World Airways flight 103 was bombed over Lockerbie in Scotland and 270 persons died;

Recalling that on 13 November 1991, following the presentation of a petition by the Procurator Fiscal for Dumfries, the Sheriff of South Strathclyde, Dumfries and Galloway in Scotland granted a warrant for the arrest of Abdelbaset Ali Mohmed Al Megrahi and Al Amin Khalifa Fhimah ("the accused") on charges of conspiracy to murder, murder and contravention of the Aviation Security Act 1982 of the United Kingdom of Great Britain and Northern Ireland;

Recalling that the Security Council of the United Nations, acting under Chapter VII of the United Nations Charter, in its Resolutions 748 (1992) and 883 (1993), demanded *inter alia* that Libya ensure the appearance of the accused for trial before a Scottish court;

Noting the letter of .... 1998 from the Permanent Representatives of the United Kingdom of Great Britain and Northern Ireland and of the United States of America to the Secretary-General of the United Nations proposing that the accused be tried before a Scottish Court sitting in the Kingdom of the Netherlands in accordance with the arrangements set out in that letter (Annex 1);

Having due regard to the decisions of the Security Council, acting under Chapter VII of the Charter of the United Nations, in its Resolution ..... (1998) (Annex 2);

Whereas the Government of the Kingdom of the Netherlands and the Government of the United Kingdom of Great Britain and Northern Ireland wish to conclude an Agreement regulating the sitting of the Scottish Court in the Netherlands and all matters necessary for the proper functioning in the Netherlands of that Scottish Court for the purpose of the trial of the accused;

Have agreed as follows:

Article 1
Definitions

For the purposes of the present Agreement, the following definitions shall apply:

(a) "the host country" means the Kingdom of the Netherlands;

(b) "the Government" means the Government of the Kingdom of the Netherlands;

(c) "the competent authorities" means national, provincial, municipal and other competent authorities under the law of the host country;

(d) "Vienna Convention" means the Vienna Convention on Diplomatic Relations done at Vienna on 18 April 1961;

(e) "Procurator Fiscal" means the Procurator Fiscal for Dumfries and any person holding a commission from the Lord Advocate to act as Procurator Fiscal or Procurator Fiscal Depute for the purposes of the trial;

(f) "Sheriff" means a Sheriff of South Strathclyde, Dumfries and Galloway in Scotland and any officials of that Sheriffdom;

(g) "the accused" means Abdelbaset Ali Mohmed Al Megrahi and Al Amin Khalifa Fhimah, charged with the offences of conspiracy to murder, murder and contravention of the Aviation Security Act 1982 of the United Kingdom of Great Britain and Northern Ireland ("the offences") specified in the Procurator Fiscal's Petition upon which warrant for arrest was issued by the Sheriff of South Strathclyde, Dumfries and Galloway in Scotland on 3 November 1991;

(h) "Lord Advocate" means the Lord Advocate of Scotland and any officials, Advocate Deputes, Scottish police officers or other persons acting under his directions, or any person directly assisting him;

(i) "the trial" means the public trial of the accused in respect of the offences and any preliminary proceedings, investigative steps, preparations for the trial, preliminary hearings and appeals following service of the indictment, any determination of law or fact and the imposition of penal sanctions, and any appeal by the accused following conviction, all in accordance with Scots law and practice;

(j) "solicitors and advocates" means persons, being legally qualified in Scotland, instructed on behalf of the Lord Advocate or on behalf of the accused;

(k) "witnesses" means persons, including experts, cited to give evidence in the trial of the accused;

(l) "the Scottish Court" means the High Court of Justiciary (including that Scottish Court sitting in an appellate capacity) and the Sheriff Court, sitting in the Netherlands in accordance with the provisions of this Agreement;

(m) "Registrar" means the person designated as such by the Director of Scottish Courts Administration to act on his behalf;

(n) "international observers" means persons nominated, by the Secretary-General of the United Nations, to attend the public hearings, pursuant to arrangements between the Secretary-General and the Government of the United Kingdom;

(o) "the premises of the Scottish Court" means the complex of buildings and land, including installations and facilities, made available by the host country and maintained, occupied and used for the purpose of the trial, including detention of the accused;

(p) "the Parties" means the Government of the Kingdom of the Netherlands and the Government of the United Kingdom of Great Britain and Northern Ireland.

Article 2
Purpose and Scope of the Agreement

This Agreement regulates the sitting of the Scottish Court in the Netherlands and the matters arising out of the trial and the proper functioning of the Scottish Court.

Article 3
The Scottish Court

(1) The Government undertakes to host the Scottish Court for the sole purpose, and for the duration, of the trial in the Netherlands. For this purpose the Government shall make available adequate premises for the trial. Within these premises the Scottish Court shall provide reasonable accommodation for persons with a legitimate interest in attending the public trial, including members of the families of the victims or their representatives.

(2) The jurisdiction of the Scottish Court is limited to the trial.

(3) The Government permits the detention of the accused for the purposes of the trial, and, in the event of conviction, pending their transfer to the United Kingdom, within the premises of the Scottish Court in accordance with Scots law and practice. The enforcement of all other sanctions involving the deprivation of liberty of persons within those premises is not permitted, except in so far as the Scottish Court orders:

(a) the temporary detention of witnesses transferred in custody to the premises of the Scottish Court;

(b) the temporary detention of witnesses in the course of their evidence;

(c) the temporary detention of persons who may have committed offences within the premises of the Scottish Court, including contempt of court; and

(d) the imprisonment of persons found guilty summarily of contempt of court.

(4) The trial will be deemed to be ended when any of the following events, but not necessarily the same event, has occurred in relation to both accused:

(a) the accused is acquitted;

(b) the trial is discontinued by process of law preventing any further trial under Scots Law; or

(c) any judgments of the Scottish Court following conviction have become final and conclusive.

Article 4
Juridical Personality of the Scottish Court

(1) The Scottish Court shall possess in the host country full juridical personality. This shall, in particular, include the capacity:

(a) to contract and to enter into exchanges of letters of understanding with the host country as envisaged in Article 27;

(b) to acquire and dispose of movable and immovable property; and

(c) to institute legal proceedings.

(2) For the purpose of this article the Scottish Court shall be represented by the Registrar.

Article 5
Inviolability of the Premises of the Scottish Court

(1) The premises of the Scottish Court shall be inviolable. The competent authorities shall take whatever action may be necessary to ensure that the Scottish Court shall not be dispossessed of all or any part of the premises of the Scottish Court without the express consent of the Scottish Court. The property, funds and assets of the Scottish Court, wherever located and by whomsoever held, shall be immune from search, seizure, requisition, confiscation, expropriation or any other form of interference, whether by executive, administrative, judicial or legislative action.

(2) The competent authorities shall not enter the premises of the Scottish Court to perform any official duty, except with the express consent of, or at the request of, the Registrar or an official designated by him. Judicial actions and the service or execution of legal process, including the seizure of private property, shall not be enforced on the premises of the Scottish Court except

with the consent of, and in accordance with conditions approved by, the Registrar.

(3) In case of fire or other emergency requiring prompt protective action, or in the event that the competent authorities have reasonable cause to believe that such an emergency has occurred or is about to occur, on the premises of the Scottish Court, the consent of the Registrar, or an official designated by him, to any necessary entry into the premises of the Scottish Court shall be presumed if neither of them can be reached in time.

(4) Subject to paragraphs (1), (2) and (3), the competent authorities shall take the necessary action to protect the premises of the Scottish Court against fire or other emergency.

(5) The Scottish Court may expel or exclude from the premises of the Scottish Court persons whose presence is not considered conducive to the maintenance of order or the conduct of the trial.

Article 6

Law and Authority on the Premises of the Scottish Court

(1) The premises of the Scottish Court shall be under the control and authority of the Scottish Court, as provided in this Agreement.

(2) Except as otherwise provided in this Agreement, the laws and regulations of the host country shall apply within the premises of the Scottish Court.

(3) The Scottish Court shall have the power to make regulations operative on the premises of the Scottish Court for the purpose of establishing therein the conditions in all respects necessary for the full execution of its functions. The Scottish Court shall promptly inform the competent authorities of regulations thus made in accordance with this paragraph. No law or regulation of the host country, which is inconsistent with a regulation of the Scottish Court, shall, to the extent of such inconsistency, be applicable within the premises of the Scottish Court.

(4) Any dispute between the Scottish Court and the host country as to whether a regulation of the Scottish Court is authorised by this article, or as to whether a law or regulation of the host country is inconsistent with any regulation of the Scottish Court authorised by this article, shall be promptly settled by the procedure set out in Article 28. Pending such settlement, the regulation of the Scottish Court shall apply and the law or regulation of the

host country shall be inapplicable within the premises of the Scottish Court to the extent that the Scottish Court claims it to be inconsistent with its regulation.

Article 7
Protection of the Premises of the Scottish Court

(1) The competent authorities shall have full responsibility for the external security of the premises of the Scottish Court. They shall exercise due diligence to ensure the security and protection of the Scottish Court and to ensure that the tranquillity of the Scottish Court is not disturbed by the intrusion of persons or groups of persons from outside the premises of the Scottish Court or by disturbance in their immediate vicinity, and shall provide to the premises of the Scottish Court the appropriate protection as may be required.

(2) If so requested by the Registrar, the competent authorities shall provide adequate police force necessary for the preservation of law and order within the premises of the Scottish Court or in the immediate vicinity thereof, and for the removal of persons therefrom.

Article 8
Immunity of the Scottish Court

The Scottish Court, its funds, assets and other property, wherever located and by whomsoever held, shall enjoy immunity from every form of legal process, except insofar as in any particular case the Scottish Court has expressly waived its immunity. It is understood, however, that no waiver of immunity shall extend to any measure of execution.

Article 9
Inviolability of Archives and all Documents of the Scottish Court

The archives of the Scottish Court, and in general all documents and materials made available, belonging to or used by it, wherever located in the host country and by whomsoever held, shall be inviolable.

Article 10
Exemption from Taxes and Duties[1]

(1) Within the scope of its official functions, the Scottish Court, its assets, income and other property, shall be exempt from all direct taxes, which include *inter alia* income tax, capital tax, corporation tax, as well as direct taxes levied by local and provincial authorities.

(2) The Scottish Court shall:

(a) on application be granted exemption from motor vehicle tax in respect of vehicles used for its official activities;

(b) be exempt from all import duties and taxes in respect of goods, including publications and motor vehicles, whose import or export by the Scottish Court is necessary for the exercise of its official activities;

(c) be exempt from value-added tax paid on any goods, including motor vehicles, or services of substantial value, which are necessary for its official activities. Such claims for exemption shall be made only in respect of goods or services supplied on a recurring basis or involving considerable expenditure;

(d) be exempt from excise duty included in the price of alcoholic beverages, tobacco products and hydrocarbons, such as fuel oils and motor fuels, purchased by the Scottish Court and necessary for its official activities;

(e) be exempt from the tax on private passenger vehicles and motor cycles (Belasting van personenauto's en motorrijwielen, BPM) with respect to motor vehicles for its official activities.

(3) The exemptions provided for in paragraph 2(c) and (d) may be granted by way of a refund. The exemptions referred to in paragraph (2) shall be applied in accordance with the formal requirements of the host country. These requirements, however, shall not affect the general principles laid down in this article.

(4) The provisions of this article shall not apply to taxes and duties which are considered to be charges for public utility services provided at a fixed rate according to the amount of services rendered and which can be specifically

[1] Subject to review by the NL Ministry of Finance

identified, described and itemised.

(5) Goods acquired or imported under paragraph (2) shall not be sold, given away, or otherwise disposed of, except in accordance with conditions agreed upon with the Government.

Article 11
Communications Facilities

(1) The Scottish Court shall enjoy, with respect to its official communications, treatment not less favourable than that accorded by the Government to any diplomatic mission in matters of establishment and operation, priorities, tariffs, charges on mail and cablegrams and teleprinter, facsimile, telephone and other communications, as well as rates for information to the press and radio.

(2) No official correspondence or other communication of the Scottish Court shall be subject to censorship by the Government. Such immunity from censorship shall extend to printed matter, photographic and electronic data communications, and other forms of communications as may be used by the Scottish Court. The Scottish Court shall be entitled to use codes and to dispatch and receive correspondence and other material or communications either by courier or in sealed bags, all of which shall be inviolable and shall have the same privileges and immunities as diplomatic couriers and bags.

(3) The Scottish Court shall have the right to operate radio and other telecommunications equipment, on frequencies allocated to it by the Government, between the premises of the Scottish Court and means of transport, within and outside the host country.

(4) For the fulfilment of its purposes, the Scottish Court shall have the right to publish freely and without restrictions within the host country in conformity with this Agreement.

(5) The provisions of this article shall apply also to the Lord Advocate.

Article 12
Public Services for the Premises of the Scottish Court

(1) The competent authorities shall secure, on fair conditions and upon the request of the Registrar or made on his behalf, the public services needed for the premises of the Scottish Court such as, but not limited to, postal, telephone and telegraphic services, electricity, water, gas, sewage, collection of waste, fire protection, local transportation and cleaning of public streets.

(2) In cases where electricity, water, gas or other services referred to in paragraph (1) are made available for the premises of the Scottish Court by the competent authorities, or where the prices thereof are under their control, the rates for such services shall not exceed the lowest comparable rates accorded to essential agencies and organs of the Government.

(3) In case of *force majeure* resulting in a complete or partial disruption of the aforementioned services, the Scottish Court shall, for the performance of its functions, be accorded the priority given to essential agencies and organs of the Government.

(4) Upon request of the competent authorities, the Registrar, or an official designated by him, shall make suitable arrangements to enable duly authorised representatives of the appropriate public services to inspect, repair, maintain, reconstruct and relocate utilities, conduits, mains and sewers on the premises of the Scottish Court under conditions which shall not unreasonably disturb the carrying out of the functions of the Scottish Court. Underground constructions may be undertaken by the competent authorities on the premises of the Scottish Court only after consultation with the Registrar, or an official designated by him, and under conditions which shall not disturb the carrying out of the functions of the Scottish Court.

Article 13
Emblem, Markings and Flag

The Scottish Court shall be entitled to display its emblem and markings, as well as the appropriate flag, on its premises.

Article 14

Privileges and Immunities of Judges and Officials

(1) The judges and officials of the Scottish Court, the Registrar, the Lord Advocate, the Sheriff and the Procurator Fiscal, shall enjoy the privileges, immunities and facilities accorded to diplomatic agents in accordance with the Vienna Convention.

(2) The privileges and immunities are accorded to the judges and officials of the Scottish Court, the Registrar, the Lord Advocate, the Sheriff and the Procurator Fiscal in the interest of the Scottish Court and not for the personal benefit of the persons themselves. The right and duty to waive the immunity in any case where it can be waived without prejudice to the purposes for which it is accorded shall vest in the British Ambassador at The Hague.

Article 15

Solicitors and Advocates

(1) The solicitors and advocates of the accused shall not be subjected by the host country to any measure which may affect the free and independent exercise of their functions under Scots law.

(2) In particular, they shall be accorded:

(a) exemption from immigration restrictions;

(b) inviolability in respect of all documents relating to the exercise of their functions as solicitor or advocate of the accused;

(c) immunity from criminal and civil jurisdiction in respect of words spoken or written and acts performed by them in their capacity as solicitor or advocate of the accused. Such immunity shall continue to be accorded to them after termination of their functions as a solicitor or advocate of the accused.

(3) The provisions of paragraph (2)(a) and (b) shall apply also to persons directly assisting solicitors or advocates of the accused.

(4) This article shall be without prejudice to such disciplinary rules as may be applicable to solicitors and advocates.

Article 16
The Accused

(1) At the time of the arrival of the accused in the host country, the Government of the United Kingdom shall, in accordance with the relevant treaties, request the Government to transfer the accused to the premises of the Scottish Court for the purpose of the trial and to detain them pending their transfer, having regard to the requirements of United Nations Security Council Resolution ..... (1998).

(2) After their transfer to the premises of the Scottish Court the accused shall not be transferred to the territory of the United Kingdom. However, the Government of the United Kingdom may, after due notification to the Government, transfer the accused from the premises of the Scottish Court directly to the territory of the United Kingdom, but only:

(a) for the purpose of trial by jury in Scotland, provided that the accused have given their written agreement, and have confirmed that agreement in person to the High Court of Justiciary in the presence of any counsel instructed by them, or

(b) for the purpose of serving a custodial sentence imposed by the Scottish Court following the conviction of the accused.

(3) The host country shall not exercise its criminal jurisdiction over the accused in respect of acts, omissions or convictions prior to their arrival in the host country. The immunity shall cease when the accused, being obliged to leave the territory of the host country, have not done so or, having left it, have returned.

(4) The accused shall be obliged to leave the host country on:

(a) the trial being discontinued by process of law preventing any further trial under Scots Law; or

(b) their acquittal.

Article 17
Witnesses

(1) The host country shall permit the entry into the Netherlands of witnesses for the sole purpose of attending the trial.

(2) Where appropriate, the host country shall permit the transfer of a witness from the border of the host country to the premises of the Scottish Court in accordance with the relevant treaties and its national law.

(3) For the purpose of paragraph (2), the Scottish Court may make requests for such transfer directly to the Ministry of Justice of the Kingdom of the Netherlands.

(4) Upon request by the Lord Advocate or the Scottish Court, the host country shall provide for protection of a witness, in accordance with its law and practice.

(5) Subject to paragraph (2), a witness shall not be prosecuted, detained or subjected to any other restriction of his or her personal liberty, by the authorities of the host country in respect of acts or convictions prior to his or her entry into the territory of the host country.

(6) The immunity provided for in paragraph (5) shall cease on departure of the witness from the territory of the Netherlands, or following the elapse of 15 days from the date when his or her presence at the trial is no longer required and during which he or she has had an opportunity to leave the Netherlands and has not done so or, having left it, has returned, unless such return is required for the purposes of the trial.

(7) Without prejudice to paragraph (4), a witness shall not be subjected by the host country to any measure which may affect the free and independent exercise of his or her functions.

Article 18
International Observers

The host country shall permit the entry into the territory of the Netherlands of international observers for the sole purpose of attending the trial. They shall not be subjected by the host country to any measure which may affect the free and independent exercise of their functions.

Article 19
Co-operation with the Competent Authorities

(1) Without prejudice to their privileges and immunities, it is the duty of all persons enjoying such privileges and immunities to respect the laws and regulations of the host country. They also have the duty not to interfere in the internal affairs of the host country.

(2) The Scottish Court shall co-operate at all times with the competent authorities to facilitate the proper administration of justice, secure the observance of police regulations and prevent the occurrence of any abuse of the privileges, immunities and facilities accorded under this Agreement.

(3) The Scottish Court shall observe security directives issued by the host country, as well as directives of the competent authorities responsible for fire prevention regulations.

Article 20
Notification

(1) The Registrar shall notify the Government of the names and status of persons referred to in this Agreement, other than members of the public, and of any change in their status. The provisions of this Agreement shall apply only to those persons who have been so notified.

(2) The Registrar shall also notify the Government of the name and identity of any personnel entitled to carry firearms within the premises of the Scottish Court, as well as the name, type, calibre and serial number of the arm or arms at his or her disposition. The Registrar shall issue permits to be carried at all times by any personnel entitled to carry firearms within the premises of the Scottish Court.

Article 21
Entry, Exit and Movement within the Host Country

All persons notified by the Registrar to the Government in accordance with Article 20(1) shall have the right of unimpeded entry into, exit from and movement within the host country, as necessary for the purposes of the trial. They shall be granted facilities for speedy travel. Visas, entry permits or licences, where required, shall be granted free of charge and as promptly as possible. The same facilities shall be accorded to persons accompanying witnesses, provided that each such person has been notified by the Registrar to the Government.

Article 22
Identification Cards

At the request of the Registrar, the Government shall issue identification cards to persons notified by the Registrar in accordance with Article 20 (1)

Article 23
Security, Safety and Protection of Persons referred to in this Agreement

Without prejudice to Article 17(4), the competent authorities shall, in accordance with the law and practice of the Netherlands, take effective and adequate action which may be required to ensure the appropriate security, safety and protection of persons referred to in this Agreement, indispensable for the proper functioning of the Scottish Court, free from interference of any kind.

Article 24
Costs

(1) All costs:

(a) relating to the establishment and sitting of the Scottish Court in the Netherlands, and

(b) incurred by the host country relating to the sitting of the Scottish Court in the Netherlands,

shall be borne by the Government of the United Kingdom.

(2)[2] The Government of the United Kingdom shall, in accordance with further arrangements made in an exchange of letters of understanding with the Government of the Netherlands, deposit in a designated account, prior to each quarter, the amount which the Ministry of Justice of the Netherlands estimates will be incurred by it in that quarter.

(3) An accounting shall be supplied by the Government of all sums expended by it every quarter.

[2] Subject to review by HM Treasury and the appropriate authorities of NL.

(4) On the termination of this Agreement, the Government of the United Kingdom and the Government of the Netherlands shall agree a final accounting with regard to the costs incurred by the latter, and shall make any balancing payment which may be required.

Article 25
Legal Cooperation

Nothing in this Agreement shall prejudice the application of treaties on legal co-operation in criminal matters, except in so far as otherwise provided in this Agreement.

Article 26
Internal Security of the Host Country

Nothing in this Agreement shall affect the right of the host country to take such measures as it may consider necessary for the purpose of protecting its national security.

Article 27
Additional Arrangements

With a view to the practical application of this Agreement, letters of understanding may be exchanged between the Registrar and the designated representative of the Ministry of Justice of the Netherlands.

Article 28
Settlement of Disputes

Any dispute relating to the interpretation or application of this Agreement shall be resolved by consultation and negotiation between the Parties.

Article 29
Final Provisions

(1) This Agreement shall enter into force on a date to be agreed by the Parties, provided that they may agree in the meantime to apply provisionally any of its provisions.

(2) Subject to paragraph (3), this Agreement shall remain in force for one year from its entry into force, with the possibility of extending it by mutual agreement.

(3) This Agreement shall terminate

(a) on the day after the date of the end of the trial (as defined in Article 3(4)), and any person then detained or imprisoned in accordance with Article 3(3)(c) or (d) shall be released on that day, or

(b) seven days after the date on which the Parties, after consultations with the Secretary-General of the United Nations, agree in an exchange of notes that there is no reasonable prospect of the trial taking place before the Scottish Court in the Netherlands as envisaged in this Agreement.

(4) Termination following completion of the trial shall not affect:

(a) those provisions of this Agreement which are required for the orderly termination of the operation of the Scottish Court, including the transfer of the accused in accordance with Article 16(2)(b); and

(b) the continuation of the immunity from legal process in respect of words spoken or written or acts done in the capacity as solicitor or advocate of the accused.

(5) This Agreement may be amended by mutual consent at any time at the request of either Party.

(6) With respect to the Kingdom of the Netherlands, this Agreement shall apply to the part of the Kingdom in Europe only.

IN WITNESS WHEREOF, the undersigned, duly authorised thereto, have signed this Agreement.

DONE at .....on .....in duplicate, in the English language.

For the Government of the Kingdom of the Netherlands:

For the Government of the United Kingdom of Great Britain and Northern Ireland:

UNITED
NATIONS

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Security Council

Distr.
GENERAL

S/1998/796
24 August 1998

ORIGINAL: ENGLISH

REPORT OF THE SECRETARY-GENERAL ON THE UNITED NATIONS CIVILIAN POLICE MISSION IN HAITI

I. INTRODUCTION

1. The present report is submitted pursuant to Security Council resolution 1141 (1997) of 28 November 1997, in which the Council requested me to report on the implementation of the mandate of the United Nations Civilian Police Mission in Haiti (MIPONUH) every three months from the date of the adoption of the resolution. The report covers the activities of MIPONUH and developments in the mission area since my report of 28 May 1998 (S/1998/434).

II. POLITICAL SITUATION

2. The institutional crisis in Haiti is now over a year old and efforts to resolve it since my previous report have not yet borne fruit. Following the failure of the nomination of Mr. Hervé Denis as Prime Minister on 15 April 1998, President René Préval opened negotiations with the political parties represented in Parliament in order to reach an agreement on the name and programme of a new Prime Minister, the establishment of a new Provisional Electoral Council (CEP) and the holding of legislative and local elections.

3. The international community has repeatedly voiced its deep concern at the continuing political stalemate. In a démarche to President Préval on 11 June 1998, the Ambassadors of Germany, France and Spain to Haiti conveyed the concern of the European Union at the absence of a Prime Minister, and emphasized that the deadlock continued to impede international assistance to the country. On 16 June, the Friends of the Secretary-General for Haiti, accompanied by my Representative and the Executive Director of the International Civilian Mission in Haiti (MICIVIH), made a similar démarche to President Préval in which they stressed the importance of a settlement to the political crisis. The following day, they reiterated their concern in meetings with the President of the Chamber of Deputies and the President of the Senate.

4. After protracted negotiations, an agreement was reached between President Préval and the Organisation du peuple en lutte (OPL), which is the main party in Parliament. However, the agreement does not extend to all political forces represented in Parliament and territorial assemblies. On

15 July, President Préval nominated the Minister of Education, Mr. Jacques-Edouard Alexis, for the post of Prime Minister. A week later, he dissolved the Electoral Council, following the resignation of the last two of its nine members.

5. In the Chamber of Deputies, the Anti Neo-Liberal Group has declared its opposition to Mr. Alexis on the ground that he is committed to structural adjustment as part of his economic policy. The Prime Minister designate continues to hold consultations with deputies and senators in order to win ratification and approval of his government programme.

6. Elements of the Lafanmi Lavalas party have questioned the decision to establish a new provisional electoral council, arguing that the 1987 Constitution requires the establishment of a permanent electoral council. However, there is a lack of political support for the formation of a permanent council prior to the next elections, as the representatives who would submit a list of candidates to such a council were voted into office as a result of the contested elections of 6 April 1997. In these conditions, a permanent council would not enjoy the confidence necessary to bring about free and fair elections. It is encouraging to note that, in the last few days, President Préval has initiated the process of discussion with the legislative and judicial branches with a view to the formation of a provisional electoral council.

7. While a number of political forces, including Organisation du peuple en lutte and Lafanmi Lavalas, had indicated that legislative and local elections should take place by the end of the year, as provided by the Electoral Law (see S/1998/434, para. 8), the prerequisite that there be an operational electoral council has not yet been fulfilled. President Préval has indicated that such elections will have to be postponed until 1999.

8. Various recent developments suggest an increase in underlying tensions in Haiti, which is a cause for concern. The murder on 3 August of a popular priest has been portrayed as a political assassination. A number of people suspected of threatening state security and drug trafficking has been arrested or is being sought by the Haitian National Police amidst rumours of a Duvalierist conspiracy. The National Police has strongly denied accusations levelled against it by Lafanmi Lavalas, which has now publicly distanced itself from the policies of the Government. In addition, the Director of the police judiciaire of the Haitian National Police tendered his resignation on 13 August, claiming policy differences. My Representative in Haiti is monitoring the situation and is following closely the continuing investigations by the National Police.

III. DEPLOYMENT AND OPERATIONS OF THE UNITED NATIONS CIVILIAN POLICE MISSION IN HAITI

9. It will be recalled that, in establishing MIPONUH, the Security Council decided that the Mission would be composed of up to 300 civilian police officers, including a 90-strong special police unit deployed along with the necessary support personnel, to continue to assist the Government of Haiti by supporting and contributing to the professionalization of the Haitian National

Police. On 15 August 1998, the civilian police element of MIPONUH included 284 officers from 11 countries (see annex).

10. The substantive police element continues to be deployed in Port-au-Prince and in all nine départements, and the special police unit continues to be based in the capital. During the reporting period, MIPONUH continued to focus on training officers at the supervisory level and monitoring the performance of members of the National Police in carrying out their professional duties. In addition, it provided assistance to the Haitian National Police for the renovation of those police stations in the Artibonite and Département du Sud, where a MIPONUH civilian police element is present, and made available on a temporary basis five boats to the National Police force to enhance its patrolling of coastal waters.

11. The Mission continues to coordinate its activities closely with the United Nations Development Programme (UNDP) and bilateral programmes, such as those of Canada, France and the United States of America. It also maintains close collaboration with MICIVIH with a view to increasing the awareness and sensitivity of National Police officers to human rights issues.

IV. HAITIAN NATIONAL POLICE

12. During the period under review, the Haitian National Police continued to make steady progress in maintaining law and order, and there appears to have been a distinct improvement in the relations between its members and the Haitian citizenry. A new Director of Administration was appointed within the Haitian National Police Directorate, a development which should improve the operation of the institution. Since 10 August, a civilian police officer has been working closely with the Director on key administrative matters. However, the resignation of the Director of the police judiciaire (see para. 8 above) has left vacant a crucial position in the institution.

13. It will be recalled that, in his report of 12 November 1996 (S/1996/813/Add.1, para. 20), my predecessor identified several elements to help measure the results achieved by the new National Police force. The Haitian National Police, in coordination with MIPONUH, conducted such a qualitative study in July to examine its performance against these criteria. The study showed that, despite continuing constraints, consistent progress had been made in certain areas and, in particular, that there has been some progress in the important area of "community policing" at the rank-and-file level.

14. On 13 August, a ceremony which was attended by the Director-General and Inspector-General of Police was held at Port-au-Prince to mark the completion of training for 108 prison guards. The arrival of the new guards should alleviate some of the problems in prisons and detention centres. A new group of prison guards has started training.

15. Since my last report, MIPONUH has assisted the National Police in strengthening its capacity to monitor the border area and protect the environment in the south-east of the country by preventing the illegal destruction of the region's forests.

16. The Director-General has recently shared with my Representative his concerns in three areas: the command structure of the police service, the administration of the service and the behaviour of the police in their day-to-day dealings with the public. All these areas will be treated as a priority for training in the next few months. The effectiveness of the National Police, however, continues to be hampered by financial, material and logistical constraints. The shortage of resources, in particular, vehicles and communications equipment, is especially acute in the more remote areas of the country.

17. The increasing illegal traffic in drugs and vehicles, as well as drug-related crime, pose a major challenge to the Haitian National Police. Despite significant seizures of cocaine, marijuana and heroin, the breaking up of criminal gangs remains a top priority of the force. However, the inadequacies of the judicial system continue to impede its efforts to combat crime, and encourage the population to resort to vigilante justice.

18. Earlier this month, the National Police suffered a setback when a riot erupted in Cabaret following the shooting of a local resident by a policeman. The officers in the town fled when the sous-commissariat was ransacked. Order was subsequently restored, but tension prevails in the town.

19. It is a matter of concern that, on occasion, some police officers still use excessive force when making arrests and, generally, act beyond the strict confines of the law. To address this problem, the Inspector-General's office continues to take steps to rid the force of officers whose conduct could bring the entire service into disrepute. It is essential for the credibility of the National Police that such efforts be sustained. In this regard, recent investigations of officers implicated in large-scale drug dealings are worrying, and it is of the utmost importance that this matter be dealt with effectively and transparently by the Inspectorate General and the Directorate General if damage is to be contained.

20. At the end of July, a team of international consultants made a formal evaluation of the UNDP project of technical assistance to the Haitian National Police. While critical in some areas, the report was largely positive. It concluded: "It is true both that the progress made in building up the Haitian National Police over the past three years has been extraordinary but also that the HNP as an institution remains extremely fragile and without further development will collapse". The report also noted that, while the investment of the international community in support of the National Police has proved to be a sound one, it will turn out to be a failure if it is not sustained.

V. JUSTICE SYSTEM

21. While the law on judicial reform adopted on 7 April 1998 has not yet been promulgated, important steps have been taken in this area (see also A/52/986, sect. III.D). On 6 July, in a meeting at the National Palace, the Preparatory Commission on Legal and Judicial Reform presented its five-year strategic plan for judicial reform which focuses on three main objectives, namely, reinforcing the strategic goals, programmes and services of the Ministry of Justice;

strengthening judicial institutions and developing new judicial practices; and increasing the participation of the people and that of civil society in the reform and the administration of justice. In the short term, the Commission plans to concentrate on the following areas: strengthening of the Ministry of Justice, improvement of the courts and tribunals, reform of penal justice, impunity, juvenile offenders, participation of civil society and establishment of follow-up mechanisms. Progress in these all-important areas will be most welcome.

22. During the reporting period, there were two visits to Haiti by individuals involved in the search for justice for victims of the coup d'état. At the request of MICIVIH, Supreme Court Magistrate Louis Joinet (France), a United Nations expert on impunity, visited from 8 to 17 July and met the victims of the 1994 Raboteau massacre and their representatives. From 2 to 8 August, a delegation headed by Nobel Peace Prize laureate Adolfo Esquivel (Argentina) visited the country at the request of the Haitian association Fondation 30 Septembre, with the assistance of MICIVIH.

23. Some encouraging initiatives have recently been taken to improve the administration of justice, especially in the area of pre-trial detention. On 17 June, the Bureau de contrôle de la détention préventive was inaugurated at the National Penitentiary in Port-au-Prince with the aim of reducing the high number of pre-trial detainees. In addition, there have been more regular visits of juges de la paix to the prisons and closer cooperation between judicial representatives and the Bureau. It is also worth noting that Haiti has recognized the competence of the Inter-American Court of Human Rights.

24. Many of the judges who graduated last May from the École de la Magistrature (see S/1998/434, para. 23) have now been posted to tribunals across the country. Preparations for the selection and training of a new class of judges have not yet been initiated. However, on 3 August, a joint training programme on criminal investigations began at the École de la Magistrature for judiciary police and magistrates, with the assistance of MIPONUH and MICIVIH.

25. Both MIPONUH and MICIVIH are concerned by the lack of resources for the Office of the Ombudsman, which was established in November 1997. The financial difficulties faced by the office considerably affect its efforts to fulfil its mandate of protecting citizens against abuses by public authorities. Bearing in mind the need to continue to reinforce Haitian democracy, it is important that the Government, in cooperation with the international community, provide the required resources to allow this institution to carry out its activities effectively.

VI. DEVELOPMENT ACTIVITIES

26. The Government of Haiti continues to operate within the economic policy framework of the Shadow Programme agreed with the Bretton Woods institutions, a key element of which is the formulation of a development plan to focus on the most urgent needs of the population through public investment. However, the prolonged political crisis has had negative repercussions on public investment which, in Haiti, is mostly financed from external sources.

27. An appraisal mission of the International Monetary Fund visited Haiti in July 1998 to assess the implementation of the national budget and start discussions on preparing the budget for next year. According to the mission, some progress has been made in the fight against inflation, which has been reduced from 16 per cent in 1997 to 10 per cent in the first half of 1998. The mission noted, however, that revenue collection has fallen far below target in many important areas.

28. The United Nations development system in Haiti continues to play a key role in supporting development initiatives aimed at helping the poorest sections of the Haitian population through agency-funded programmes in the social and productive sectors. Seven working groups created in May 1998 within the framework of the Secretary-General's reform programme are pursuing their efforts to strengthen the impact of United Nations development activities. In July, the World Bank appointed a new Resident Representative for Haiti, filling a long-standing vacancy.

29. UNDP continues to play an important role in the Haitian transition process, primarily through its continuing country programme activities. In addition to its traditional mandate in the areas of good governance, poverty reduction and environmental protection, UNDP continues to provide support through two projects on capacity-building within the Haitian National Police and prison reform. UNDP also cooperates closely with MICIVIH and donors to promote judicial reform and assist the Human Rights Ombudsman in the discharge of his duties. It should be noted, however, that the vital work of prison reform is likely to be badly hampered by a lack of funds, unless further resources are received by UNDP in the near future.

30. In July 1998, UNDP issued a final report and financial statement on its support to the 1996 and 1997 elections jointly financed through a trust fund by Brazil, Canada, France, Japan, Norway and the United States of America. In view of the current financial constraints of UNDP, which have prompted the Government to seek additional funds to co-finance UNDP-sponsored activities, any support to the future legislative elections will be contingent upon the readiness of bilateral and other donors to make available the required financial resources in a timely manner.

VII. OBSERVATIONS

31. The international community remains deeply concerned that Haiti is still without a Government more than a year after the outset of the current political crisis. Haiti continues to face formidable political and economic challenges, none of which can be met in the absence of a functioning Government. As is widely acknowledged, the continuing political deadlock poses considerable risks to the country's fragile democracy. It is also a serious impediment to economic development and international assistance. I therefore reiterate my appeal to the Haitian authorities and political leaders, especially legislators, to pursue current efforts to resolve the crisis so that a new Prime Minister can be ratified without further delay. The people of Haiti deserve a Government; without it the country's development cannot move forward.

32. It is also of paramount importance that concrete steps be taken to prepare for the next local and legislative elections, including the establishment of a Provisional Electoral Council, and that these elections be free, fair and transparent. The United Nations stands ready to provide international experts to assist the Provisional Electoral Council if requested to do so by the Haitian authorities.

33. Although progress has been made in both t'e training and performance of the Haitian National Police, the development of an effective police force is a complex and lengthy task and is a fundamental part of the democratic process. In this context, it is now widely accepted that there will be a continuing need for international training of the Haitian National Police to strengthen the capacity of the force and consolidate the gains it has already achieved. During the coming months, therefore, consultations will need to be held with the Haitian authorities regarding the continued role of the international community in training the Haitian National Police in the medium and longer term.

34. I should like to take this opportunity to thank my Representative and Head of MIPONUH, Mr. Julian Harston, and the Police Commissioner, Colonel Claude Grudé, as well as international and local staff of the Mission, for their dedication and efforts in support of United Nations activities in Haiti.

Annex

Composition of United Nations Civilian Police Mission in Haiti as at 15 August 1998

Country	Special police unit	Substantive element
Argentina	140	6
Benin		6
Canada		24
France		36
India		3
Mali		19
Niger		5
Senegal		8
Togo		6
Tunisia		1
United States of America		30
Subtotal	140	144
Total		284

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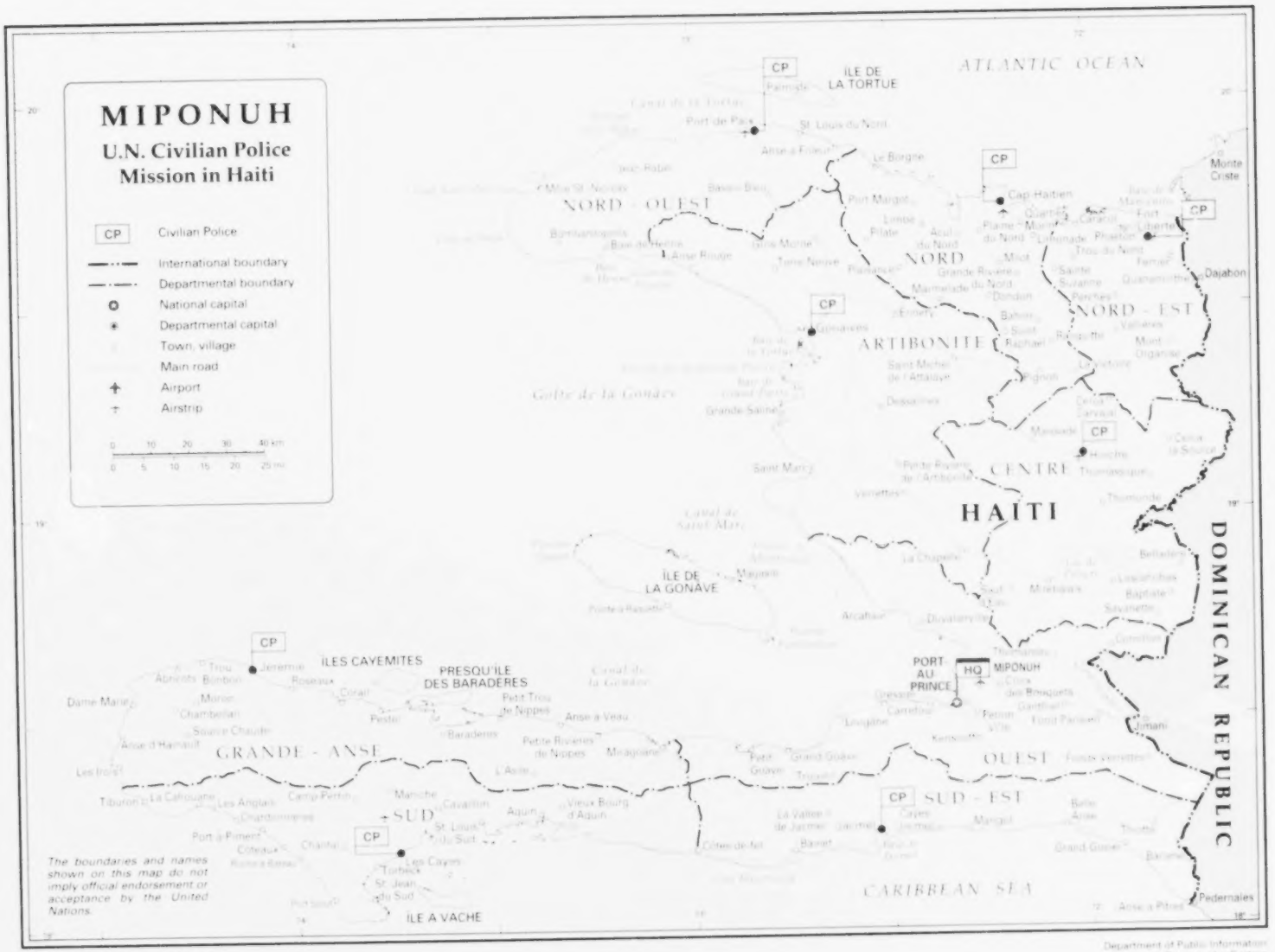

Map No. 4042 Rev. 2 UNITED NATIONS
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Department of Public Information
Cartographic Section

UNITED NATIONS **S**

Security Council

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S/1998/797
24 August 1998
ENGLISH
ORIGINAL: ARABIC

LETTER DATED 24 AUGUST 1998 FROM THE PERMANENT REPRESENTATIVE OF IRAQ TO THE UNITED NATIONS ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

On instructions from my Government, I have the honour to transmit to you herewith the text of the letter dated 24 August 1998 addressed to you by Mr. Tariq Aziz, Deputy Prime Minister, concerning the statements by Mr. Richard Butler, Executive Chairman of the Special Commission, reproduced in the 23 August 1998 issue of The New York Times.

I should be grateful if you would have the present letter and its annex circulated as a document of the Security Council.

(Signed) Nizar HAMDOON
Ambassador
Permanent Representative

Annex

Letter dated 24 August 1998 from the Deputy Prime Minister of Iraq addressed to the President of the Security Council

In its 23 August 1998 issue, the United States newspaper The New York Times reproduced a statement by Mr. Richard Butler, Executive Chairman of the Special Commission, in which he made a number of false assertions as part of his policy of misleading the Security Council and world public opinion. In one blatant example of the kind of falsehoods that he puts about concerning what has actually been achieved in the disarmament sphere pursuant to resolution 687 (1991), Mr. Butler says in the interview with Paul Lewis that he suspects that Iraq might be modifying its Volga and Al Samoud missiles to give them a range of more than 150 kilometres, which is prohibited by the Security Council.

In this connection, I should like to state the following:

1. Since the monitoring provided for under resolution 715 (1991) began in late 1993, Iraq has fulfilled its obligation to submit periodic declarations concerning all activities, including those related to missiles.

2. Since that time, all missile-related activities subject to monitoring have been covered, including those related to the Al Samoud missile (which has a range of less than 150 kilometres and which Iraq is therefore authorized under resolution 687 (1991) to manufacture), work on which had begun over two years previously, and the form on the basic design of that missile has been submitted and then updated, as is the case for all the other declarations, every six months and whenever the need has arisen.

3. As requested by the Special Commission, in addition to the six-monthly declaration, in mid-1997 Iraq began to submit monthly status declarations for all the control and support sites of missile-related activities. These forms give a detailed inventory of all missile components, including those for the Al Samoud missile, manufactured, tested or assembled at these sites.

4. Iraq submits the forms required under the declaration mechanism for in-flight missile tests and specific tests on the engines of missiles subject to monitoring, including the Al Samoud missile, and the Special Commission's monitoring teams are present at these tests and photograph and film them. Monitoring teams are also in the habit of verifying the range of missiles during in-flight testing, using helicopters to record the GPS coordinates of their points of launching and landing.

5. Cameras installed at the workshops where the main missile systems are produced and tested monitor these facilities visually and transmit images to the monitoring centre in Baghdad. Moreover, the Special Commission's monitoring teams visit these sites constantly. The Commission has persistently made a point of strengthening the monitoring team and increasing its size as the time for the in-flight testing of the Al Samoud missile drew near, and the team visits the assembly site where the missile is prepared for launch tests on a daily basis. The Commission's inspection teams and monitoring teams have made

over 700 visits to all the sites involved in missile-related activities since the Al Samoud missile programme began.

6. Volga ground-to-air missiles are subject to monitoring by the Special Commission through labels affixed to their control systems, and cannot therefore be modified without the Special Commission's knowledge. Furthermore, the monitoring teams conduct random, unannounced inspections, in the course of which they regularly check the labels affixed to missiles to make sure that the latter have not been modified.

It is highly regrettable that the Executive Chairman of the Special Commission has repeatedly taken blatant steps of this kind and that neither the Security Council nor the Secretary-General has acted to put a stop to this way of proceeding, despite the fact that such conduct is grossly incompatible with the behaviour that is expected of international civil servants and is a deliberate and one-sided attempt to be provocative and to foment crises. It is quite obvious that the Executive Chairman, and certain elements in the Special Commission whose identity is known to everyone, are doing this in order to maintain the embargo against Iraq and to serve the interests of a certain country, and that they are therefore entirely to blame for all the crises that arise.

We hope that the Security Council will put a stop to this tendentious approach, that it will acknowledge that Iraq has fulfilled all the requirements of section C of resolution 687 (1991) and will proceed to lift the iniquitous embargo, beginning with the implementation of paragraph 22 of that resolution.

(Signed) Tariq AZIZ
Deputy Prime Minister

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Security Council

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24 August 1998

ORIGINAL: ENGLISH

LETTER DATED 18 AUGUST 1998 FROM THE PERMANENT REPRESENTATIVE OF THE DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA TO THE UNITED NATIONS ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

I have the honour to transmit herewith the text of a statement of the spokesman for the Ministry of Foreign Affairs of the Democratic People's Republic of Korea dated 18 August Juche 87 (1998) concerning the large-scale "Ulji Focus Lens" joint military exercises, which are being staged in south Korea.

I should be grateful if you would have the present letter and its annex circulated as a document of the Security Council.

(Signed) LI Hyong Chol
Ambassador
Permanent Representative

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Annex

Statement of the Spokesman for the Ministry of Foreign Affairs of the Democratic People's Republic of Korea issued at Pyongyang on 18 August 1998

At present, the large-scale "Ulji Focus Lens" joint military exercises are being staged throughout south Korea with the mobilization of huge United States and south Korean armed forces.

The joint military exercises, scheduled to continue for 12 days, until August 28, in all parts of south Korea, including Seoul, are participated in by a large military force, over 70,000 strong, including about 13,000 American occupation troops of south Korea belonging to the "Republic of Korea-United States Combined Forces Command" and the south Korean puppet army.

The exercises are, in all intents and purposes, part of the provocative and aggressive military moves to gain military supremacy over the Democratic People's Republic of Korea and perfect military preparations for another war on the Korean peninsula.

We are taking a serious view of the fact that the exercises are not an isolated annual one.

As already known, the United States has deployed in the East Sea of Korea a huge amount of military personnel and hardware, including a nuclear-powered attack submarine of the United States Pacific Command, since late July, under the pretext of "jointly guarding against possible provocation" by the Democratic People's Republic of Korea and staged "joint operational" exercises along with the south Korean puppet army.

The "Ulji Focus Lens" war game, which is being staged in all parts of south Korea at this very juncture, cannot be construed otherwise than as a dangerous military confrontation racket motivated by a sinister intention to militarily get on the nerves of the Democratic People's Republic of Korea and to deliberately render the situation on the Korean peninsula strained.

The "Ulji Focus Lens", which began in the mid-1970s, is being continued even in the late 1990s when the cold war has come to an end. This clearly proves that the United States-advertised appeasement policy towards the Democratic People's Republic of Korea is a sham and that the United States authorities have not yet abandoned the anachronistic policy of stifling the Democratic People's Republic of Korea militarily.

The dark clouds of war are still hovering over the south of the Korean peninsula with war rehearsals being staged one after another. The present grave situation is attributable to the United States forces' occupation of south Korea.

Historical facts fully show that the United States forces are a wrecker of peace on the Korean peninsula and a main obstacle lying in the way of peaceful

reunification. They eloquently prove the justice of our argument that only when the United States forces are immediately pulled out of south Korea can it be possible to solve the issue of the Korean peninsula fairly and in a peaceful way.

Recently the United States and the south Korean authorities have never missed an opportunity to plead for a dialogue with us.

The war rehearsals conducted against us, which are being staged in succession, clearly show again that they are paying lip service to dialogue and negotiations in a bid to cover up their preparations for a war of aggression against the Democratic People's Republic of Korea.

Their double-dealing tactics against the desire and requirements of the international community for peace and peaceful reunification on the Korean peninsula, as well as the trend of the times towards détente and reconciliation, will only give rise to negative consequences. The United States and the south Korean authorities must be aware of this.

To answer dialogue with dialogue, war with war, is our consistent position.

Our people and People's Army will always watch every movement of the United States and the south Korean authorities with heightened vigilance and will decisively frustrate any militarily provocative moves of the enemies.

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S/1998/799
24 August 1998
ENGLISH
ORIGINAL: ARABIC

LETTER DATED 24 AUGUST 1998 FROM THE PERMANENT REPRESENTATIVE OF IRAQ TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

On instructions from my Government, I wish to inform you as follows:

1. On 2 and 3 August 1998, the Kuwaiti side, under armed threat, kidnapped two members of the Iraqi border police stationed at the Hadiya and Karah al-Abd guard posts, and tortured them. The second was released, while the fate of the first is not known. They are:

(a) Muhammad Jabar Arar;

(b) Sa'dun Tawfan Hadi.

2. At 14.30 hours on 15 August 1998, two small Kuwaiti patrol boats armed with PKT machine-guns were seen opposite buoy number 23 at coordinates 1122 (1:100,000 map of Faw) inside the demilitarized zone on the Kuwaiti side.

3. At 11.45 hours on 16 August 1998, a Kuwaiti tug accompanied by three boats armed with PKS machine-guns was seen opposite buoy number 23 at coordinates 1122 (1:100,000 map of Faw) inside the demilitarized zone on the Kuwaiti side. At 14.30 hours the tug departed with the boats in the direction of the sea.

4. At 12.30 hours on 17 August 1998, a Kuwaiti tug with two patrol boats armed with PKS machine-guns was seen opposite buoy number 23 (1:100,000 map of Faw) inside the demilitarized zone on the Kuwaiti side. At 14.10 hours the tug departed with the two boats in the direction of the sea.

I should be grateful if you would intervene with Kuwait to put an end to these unjustified violations and provocations, which have recently increased in frequency, since they offend against the United Nations Charter and the provisions of international public law, and threaten the sovereignty and security of a Member State of the United Nations.

I also affirm the legally established right of the Republic of Iraq to demand legal compensation for the damage inflicted by such actions on it, on its citizens and on their property in accordance with the principle of State responsibility.

I should be grateful if you would have this letter circulated as a document of the Security Council.

(Signed) Nizar HAMDOON
Ambassador
Permanent Representative

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S/1998/800
24 August 1998
ENGLISH
ORIGINAL: ARABIC

LETTER DATED 24 AUGUST 1998 FROM THE CHARGÉ D'AFFAIRES A.I.
OF THE PERMANENT MISSION OF KUWAIT TO THE UNITED NATIONS
ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

In my capacity as Chairman of the Arab Group for the month of August 1998 and on behalf of the States members of the League of Arab States, I have the honour to transmit to you herewith the text of resolution 5781 adopted on 24 August 1998 by the Council of the League of Arab States, meeting in special session at the level of permanent delegations, concerning the destruction of a pharmaceutical factory on the outskirts of Khartoum in the Republic of the Sudan.

I should be grateful if you would have the text of this letter and its annex distributed as a document of the Security Council.

(Signed) Ali Sulaiman AL-SAEID
Chargé d'affaires a.i. of the Permanent Mission
of Kuwait to the United Nations
Chairman of the Arab Group

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Annex

RESOLUTION CONCERNING THE UNITED STATES BOMBING OF A PHARMACEUTICAL FACTORY IN KHARTOUM

The Council of the League,

Having considered:

- The note by the Secretariat,
- Note No. BDJ/1/3 dated 21 August 1998 from the permanent delegation of the Sudan to the League of Arab States,
- The statement on this subject issued on 22 August 1998 by the Minister for Foreign Affairs of the Sudan,
- The explanatory note on this subject submitted by the permanent delegation of the Republic of the Sudan,
- The statement by the Secretariat dated 21 August 1998,
- The oral statement made by the Ambassador and Permanent Representative of the Republic of the Sudan concerning the United States bombing of the Shifa pharmaceutical and veterinary products factory in the Bahri district of Khartoum on 20 August 1998,

Recalling the resolutions of the Arab Summit Conference and of the Council of the League, the most recent being resolution 5746 (109) dated 25 March 1998 on solidarity with the Sudan and on support for that country in the face of threats to its stability and to the unity and integrity of its territory,

1. Condemns the United States bombing of a pharmaceutical factory in Khartoum and deems it an act of aggression against the Sudan, a serious violation of its sovereignty and territorial integrity and a flagrant breach of all the norms and rules of international law, above all the Charter of the United Nations;

2. Supports the Sudan in facing threats to its sovereignty and territorial integrity and backs the efforts which it is making in the competent international and regional organizations and forums;

3. Requests the United States of America, as a permanent member of the Security Council and as a major Power with global responsibility for maintaining international peace and security, to respect international legality and to refrain from any act that constitutes a violation of State sovereignty, arouses public outrage and gives rise to acts of violence and reprisals, thereby endangering international peace and security;

4. Calls upon the international community to oppose the use of force for settling disputes among States and to advocate restraint and recourse to

constructive dialogue in political and security matters, on the basis of respect for the principles of international legality, State sovereignty and non-intervention in the internal affairs of other States;

5. Condemns terrorism in all its forms and manifestations, regardless of whether it has its source in a State, a group or individuals, opposes it by all means consistent with international conventions and with the Arab convention, signed by the Arab Ministers of Justice and the Interior on 22 April 1998, on measures to combat terrorism and on the distinction between terrorism and the legitimate right of peoples to struggle against occupation, and requests the Security Council to adopt appropriate resolutions in keeping with the Charter of the United Nations and with the rules on measures to combat terrorism;

6. Requests the Security Council to discharge its responsibility for maintaining international peace and security and for ensuring respect for the sovereignty and territorial integrity of States and to accede to the Sudan's request to send a fact-finding mission to establish the nature of the products manufactured by the Shifa pharmaceutical factory in Khartoum and to satisfy itself that the factory is not producing chemical weapons;

7. Instructs the Secretary-General to monitor this issue.

(Resolution No. 1581, special session, 24 August 1998)

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25 August 1998

ORIGINAL: ENGLISH

LETTER DATED 24 AUGUST 1998 FROM THE PERMANENT REPRESENTATIVE OF THE SUDAN TO THE UNITED NATIONS ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

Further to my letter dated 23 August 1998 (S/1998/793), please find attached an article published in The Observer of London dated 23 August 1999, in which the paper states that the American President knew that he was bombing a civilian target that is not capable of producing nerve gas, yet he ordered the bombing of the factory (see annex).

I should be grateful if you could circulate the present letter and its annex as a document of the Security Council.

(Signed) Elfatih ERWA
Permanent Representative

98-24878 (E) 250898

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Clinton bombed civilians on purpose

American tests showed no trace of nerve gas at 'deadly' Sudan plant. The President ordered the attack anyway

by Ed Vulliamy Washington
Barry McDonald Belfast
Shyam Bhatia and Martin Bright

PRESIDENT Bill Clinton knew he was bombing a civilian target when he ordered the United States attack on a Sudan chemical plant. Tests ordered by him showed that no nerve gas was on the site and two British professionals who recently worked at the factory said it clearly had no military purpose.

The disclosure will deepen the crisis, following the American attacks on Afghanistan and Sudan, in relations between the US and its Muslim allies, which have called on Clinton to produce hard evidence that the attacks had a legitimate relevance to the war against international terrorism.

The US claims that the al-Shifa Pharmaceuticals Industries plant in north Khartoum was producing the ingredients for the deadly VX nerve gas. But Sudan's assertion that it produced 50 per cent of the country's drug requirements is much closer to the truth. On 10 March this year, Britain's Junior Foreign Minister Tony Lloyd told Parliament that the Government could not 'validate' American claims that Sudan was developing chemical weapons and 'is not aware of any fresh or substantiated evidence on the matter'.

US forces flew a reconnaissance mission to test for traces of gas and reported that there were none. Clinton immediately authorised the attack. He was also told the absence of gas would avoid the horrifying spectacle of civilian casualties. Sudan television said yesterday that one of 10 people injured in the attack has died.

Belfast film-maker Irwin Armstrong, who filmed the plant while making a promotional video, said: 'The Americans have got this completely wrong. In other parts of the country I encountered heavy security but not here. I was allowed to wander about quite freely. This is a perfectly normal chemical factory with the things you would expect — stainless steel vats and technicians.'

Tom Carnaffin, of Hexham, Northumberland, who worked as a technical manager from 1992 to 1996 for the plant's owners, the Baaboud family, said: 'I have intimate knowledge of that factory and it just does not lend itself to the manufacture of chemical weapons.

'The Americans claimed that the weapons were being manufactured in the veterinary part of the factory. Unless there have been some radical changes in the last few months, it just isn't equipped to cope with the demands of chemical weapon manufacturing. You need things like airlocks, but this factory just has doors leading out on to the street.

'The factory was being sold to a Saudi Arabian. They are allies of the Americans. I don't think it would look very good if the factory was also manufacturing weapons for Baghdad.'

Sudan desperately needed medicines, he said. 'I almost died while working out there. The loss of this factory is a tragedy for the rural communities.'

The engineer, who has said he will be returning to Sudan soon to carry out more work for the Baaboud family, condemned the American attack and its resulting loss of life.

'It's a funny feeling to think that I had a cup of tea in that place and the guard on the gate who used to say hello to me is very probably now dead. The Baabouds are absolutely gutted about this.'

Crowds in Khartoum yesterday vented their anger against Britain for supporting Clinton, by stoning the British embassy and tearing up the flag.

From Afghanistan, an assurance that British targets will not be included in any retaliatory strikes has come from sources close to Osama bin Laden, the multimillionaire Saudi fundamentalist believed to be behind the bombings of US embassies in Africa.

Bin Laden, who survived the American air strikes on his training camp in Afghanistan, telephoned the editor of the London-based Arabic daily newspaper *al Quds al-Arabi* to say he was only interested in hitting the US and Israel.

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25 August 1998

ORIGINAL: ENGLISH

LETTER DATED 25 AUGUST 1998 FROM THE PERMANENT REPRESENTATIVE OF NAMIBIA TO THE UNITED NATIONS ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

In my capacity as Chairman of the African Group for the month of August, I wish to inform you that the Group of African States request you, as President of the Security Council for the month of August, to convene a meeting of the Council to discuss the situation in the Sudan following the strike on the al-Shifa Pharmaceuticals industries plant in the north of Khartoum.

Furthermore, the Group of African States request the Security Council to dispatch a fact-finding mission to the Sudan to establish the facts surrounding the activities of the said pharmaceutical plant.

(Signed) Martin ANDJABA
Ambassador
Permanent Representative
Chairman of the African Group for
the month of August

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25 August 1998
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LETTER DATED 25 AUGUST 1998 FROM THE CHARGÉ D'AFFAIRES A.I. OF THE PERMANENT MISSION OF THE LIBYAN ARAB JAMAHIRIYA TO THE UNITED NATIONS ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

The Permanent Mission of the Libyan Arab Jamahiriya received the following documents on Monday evening, 24 August 1998:

- Letter from the Deputy Permanent Representatives of the United Kingdom and the United States of America addressed to the Secretary-General;

- Agreement between the Governments of the Netherlands and the United Kingdom concerning Scottish legal proceedings in the Netherlands;

- Proceedings of the Netherlands court, the English version of which we have transmitted to the Ministry of Foreign Affairs and International Cooperation and are having translated into Arabic with a view to submitting it as soon as possible to the competent authorities of the Libyan Arab Jamahiriya for consideration and the appropriate decision.

The Permanent Mission was surprised to learn today that a draft resolution has been presented to the Security Council. Irrespective of the content of that draft, we wish to state the following:

1. The other States which are parties to this dispute took several months to arrive at the formula which was submitted to us yesterday.

2. It took those same States over a month to negotiate and agree on a formula with the Netherlands authorities.

3. This formula was worked out by legal experts of those States.

In recalling these facts, we wish to reiterate to the Council the following:

1. Libya is anxious to arrive at a settlement of tnis dispute and to turn over a new page in its relations with the States concerned.

2. Libya's judicial authorities need to have sufficient time to study those documents and to request the assistance of international experts more familiar with the laws of the States mentioned in the documents.

3. We are absolutely convinced that the Secretary-General of the United Nations, Mr. Kofi Annan, must be given sufficient time to achieve what the Security Council has asked of him, so that any issue or difficulty that might delay the desired settlement can be resolved.

As a result, we request the following:

That a decision on the draft resolution presented to the Security Council be postponed until Libya's judicial authorities have completed their study of the above-mentioned documents and until the Secretary-General of the United Nations has played the role entrusted to him, in order to arrive at practical solutions that can be applied by the different parties, thereby ensuring that the two suspects appear in court in a neutral third country as soon as possible.

In this connection, Libya reiterates its consistent, documented positions to you, the purpose of this request being to confirm that Libya seriously wishes to arrive at a solution and to resolve any complication that might arise.

I should be grateful if you would have the text of this letter distributed as a document of the Security Council.

(Signed) Ramadan A. BARG
Chargé d'affaires a.i.